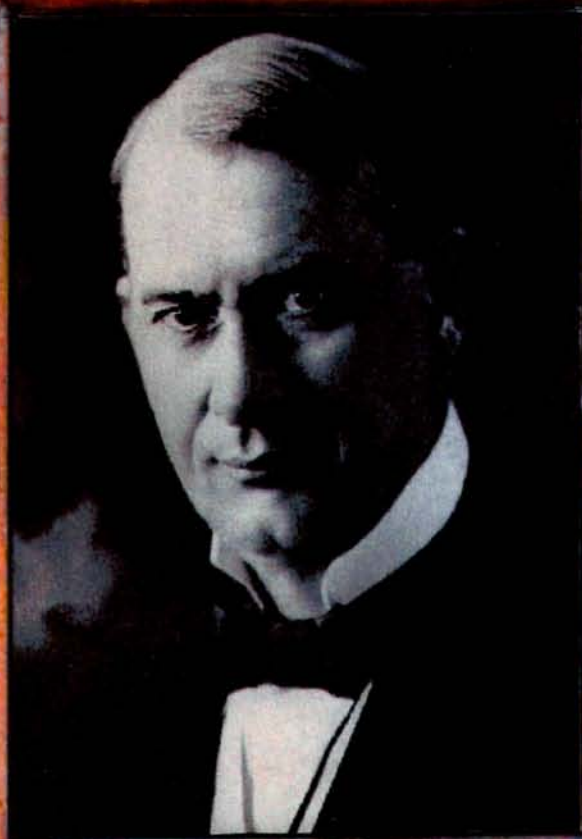


Judge Rutherford B.



The United States

RUSSELLITES' BOOK ISSUED AFTER WAR

Indictment Returned Against Witness Who Failed to Re- call Signatures.

"The Finished Mystery," the alleged seditious book issued by the International Bible Students Association, of which the late Pastor Russell was founder, was not completed before this country entered the war, as had been contended by Russell's followers who are now on trial for conspiracy before Judge Howe in the Federal Court, Brooklyn, according to testimony offered yesterday afternoon.

During yesterday's session William F. Huggins, who had previously been held in contempt of court by Judge Howe for refusing to answer questions, was indicted by the Federal Grand Jury.

The admission that the book containing the seditious matter had been completed after war was declared by this country was made by George H. Fisher of Scranton, Pa., one of the editors of the Watch Tower. Fisher testified that he had seen revised proofs of the book on June 25, 1917, eighteen days after war had been declared.

His testimony was offered after the Grand Jury had brought in the indictment against Huggins, who had earlier in the day been sent to jail by Judge Howe for evading questions put to him when called to identify the signatures of William E. Van Amburgh and A. Hugh McMillan, men he had worked beside for years. Huggins's wife, who was a stenographer, also had refused to answer questions and was reprimanded by the court.

Following the indictment Huggins was arraigned before Judge Howe and bail fixed at \$5,000. The case will come up on June 17.

Fisher declared "The Finished Mystery," written closely from an outline left by Pastor Russell, was based on prophecies in the Book of Revelation.

The witness said that he personally was not opposed to war and would be willing to fight; but that the Lord said in His teachings that a Christian should not take life. "To a man who has not made full consecration of himself I would not lay down such a law," he declared.

"You mean," commented the court, "that it is wrong for you and those with you to engage in warfare, but right for the rest of us?"

Fisher said that one passage in the book, "Conscription will meet with opposition," was not written by him, but had been edited into the copy after he had turned it in.

Rutherford Gets 20-Year Sentence

New York, June 22.—Joseph F. Rutherford, successor of "Pastor" Russell as head of the international Bible students' association, and six of his associates were sentenced Friday to twenty years imprisonment for conspiracy to violate the espionage law.

Sentencing of Giovanni Dececca, another defendant convicted, was deferred for two months pending an investigation into his past career suggested by the court.

The sentences will be served at the federal penitentiary at Atlanta.

The charge against Rutherford and the other defendants was that they preached sedition in "Pastor" Russell's posthumous book, "The Finished Mystery," and advised resistance to the draft.

Russell's Followers Guilty of Violation of U. S. Espionage Act

NEW YORK, June 22.—Joseph F. Rutherford and seven other defendants, followers of the late "Pastor" Russell, have been found guilty of conspiring to violate the espionage law, by a jury in federal court.

When the jury filed into the courtroom and the foreman announced the defendants had been found guilty on all four counts in the indictments against them, Judge Howe's comment was that the verdict was "thoroughly right."

Counsel for the defense moved that the verdict be set aside on the grounds that it was against the weight of evidence and that errors had been committed in the admission of evidence. The judge gave him until tomorrow noon to file his objections.

The maximum penalty which can be imposed on each defendant is forty years' imprisonment. The four counts on which they were found guilty were conspiracy, insubordination, disloyalty and resistance of the selective draft act. Each count carried a maximum penalty of ten years.

10-YEAR SENTENCE FOR DE CECCA, RUSSELLITE

Giovanni de Cecca, in charge of Italian translations for the International Bible Students Association and other organizations of the late Pastor Russell, who was found guilty recently on two counts for violation of the espionage law, was sentenced to ten years' imprisonment on each count by Judge Harlan B. Howe in the United States District Court in Brooklyn today. The sentences are to run concurrently.

All the usual motions, made by De Cecca's attorney, Jesse Fuller, were denied, with the exception of the privilege of taking an appeal. Judge Howe ordered him confined in the Atlanta prison.

20 ARRESTED FOR VIOLATING SEDITION ACT

INDIANAPOLIS, Ind., April 23.—Twenty persons, 10 of them women, are under arrest here for violation of the sedition act in distribution of the "Kingdom News," containing an article headed "The Finished Mystery and Why It Was Suppressed."

The paper is printed in New York. A petition addressed to President Wilson appears in the paper with blank lines for signatures. It declares that "Any interference by the clergy with independent Bible study is intolerant, un-American and un-Christian; and that any attempt to combine church and state is radically wrong." It protests against the suppression of "The Finished Mystery" and asks the government to remove all restriction as to its use.

ARREST LEADER OF RUSSELLITES

'Judge' Rutherford Nabbed
in Raid on Bible
Students' Quarters

CONSPIRACY AND SEDITION CHARGED

NEW YORK, May 8.—Joseph F. Rutherford, who as "Judge Rutherford of the New York bar" assumed leadership of the International Bible Students' Association and other organizations founded by "Pastor" Russell at the time of Russell's death two years ago, was arrested by federal agents here today charged with violating the trading with the enemy act and conspiring to induce insubordination and disorder among United States soldiers.

With five other leaders of the "Russellite" organizations, Rutherford was arrested during a raid on the "Bethel Home" in Brooklyn, the headquarters of the Bible Students' Association; the Watch Tower Society and other associated bodies formed ostensibly for the dissemination of the "New Thought" teachings of "Pastor Russell."

To Stir up Dissension

Many of these doctrines were incorporated in Russell's posthumous book, "The Finished Mystery," which was one of the mediums through which the Bible Students' Association leaders sought to stir up dissension among the nation's soldiers, according to one of the indictments against Rutherford and his associates.

"The Watch Tower," "The Bible Student" and "The Kingdom News," periodicals issued by the Russell Societies, the indictment alleges, also were employed for the distribution of this trouble-making propaganda. "The Kingdom News" was suppressed by federal authorities last week.

Under the indictment charging violation of the trading with the enemy act, Rutherford will be asked to explain why one of his organizations sent a draft for \$500 to Zurich, Switzerland, on Nov. 7, last year, which ultimately found its way to a payee in Barmen, Germany. Co-defendants named on this charge are William E. Van Amburgh and Robert J. Martin, who were taken in custody with Rutherford today, and Charles E. Binkie, who has not been apprehended. The men were admitted to bail to

John G. Stevens, to whom the trustees of the association transferred the Bethel home, disqualifying in the sum of \$60,000.

20 YEARS FOR 7 "STUDENTS"

"Pastor" Russell's Successor and Six Convicted

NEW YORK, June 21.—Joseph F. Rutherford, successor of "Pastor" Russell as head of the International Bible Students' Association and six of his associates were sentenced today to 20 years' imprisonment for conspiracy to violate the espionage law.

"Since it is the will of the Lord, we're glad to go," was the sentiment expressed by several of the convicted men to a throng of their friends, who were allowed to visit them in the grand jury room. Soon they all began to sing hymns, including "Nearer, My God, To Thee," and "Onward Christian Soldiers."

If a stay is not obtained, it is probable Rutherford and his six associates will be taken to Atlanta Monday.

ACCUSED OF SPREADING LIE

Arrests Follow as Aftermath of "The Finished Mystery."

SEATTLE, Wash., April 21.—Nine men were arrested here today at the direction of C. L. Reames, assistant United States attorney general, after they had begun the circulation of a paper, said to have been published in Brooklyn, N. Y., and carrying accusations that the protestant and Catholic clergy of the United States had instigated government action against members of the International Bible Students' Association. This association, according to government agents, sponsored the circulation of a book called "The Finished Mystery," which recently was suppressed. Thousands of copies of the Brooklyn paper were confiscated by the police. The publication was called "Kingdom News," and the subject matter bore the title: "The Finished Mystery and Why Suppressed."

PORTLAND, Ore., April 21.—Lloyd B. Rurich and George H. Simpson, self-declared members of the International Bible Students' Association, were arrested here today in connection with the distribution of the "Kingdom News," a publication mainly devoted to a defense of Pastor Russell's book, "The Finished Mystery." They were turned over the federal authorities. Copies of the "Kingdom News" were found on door-steps in a large section of the residence district.

8 FOLLOWERS OF RUSSELL GUILTY

Late "Pastor's" Men Are Convicted

NEW YORK, June 20.—Joseph F. Rutherford and seven other defendants, followers of the late "Pastor" Russell, were found guilty of conspiring to violate the espionage law by a jury in federal court at 10:30 o'clock tonight.

When the jury foreman announced that all the defendants had been found guilty on all four counts in the indictments against them, Judge Howe's comment was that the verdict was "thoroughly right."

Counsel for the defence moved that the verdict be set aside on the grounds that it was against the weight of evidence and that errors had been committed in the admission of evidence. Asserting that the lawyer must be more specific, the judge gave him until tomorrow noon to file his objections. At that hour, the judge announced, he would sentence the eight men.

The maximum penalty that can be imposed on each defendant is 40 years imprisonment. The four counts on which they were found guilty were conspiracy, insubordination, disloyalty and resistance of the selective draft act. Each count carries a maximum penalty of 10 years. Judge Howe in imposing sentence can rule that they run separately or concurrently.

Besides Rutherford, the defendants were: William E. Van Amburgh, Robert J. Martin, Fred H. Robinson, George H. Fisher, Clayton J. Woodworth, A. Hugh McMillan and Giovanni de Ceclia.

RELIGIOUS BELIEF NOT GOOD DEFENCE

Is No Excuse for Violating Law, Says Judge

NEW YORK, June 17.—Religious belief is no excuse for violating the law, according to a statement made in the federal court here today by Judge Howe at the trial of Joseph F. Rutherford, who succeeded "Pastor" Russell as head of the International Bible Students' Association, and his seven associates, charged with opposing the war policies of the government by the circulation of alleged seditious literature.

Rutherford, asked if he believed in the draft, replied that in his youth it was his ambition to lead an army. "But according to the tenets of our organization, it is against our principles to fight and on that ground alone I am opposed."

ARREST RUSSELLITES ON SEDITION CHARGES

**Rutherford, Who Succeeded
Late 'Pastor,' and Five Other
Leaders Barely Escape Jail.**

INDICTED IN FEDERAL COURT

**Inciting Refusal to Do Military
Duty and Sending Money to
Germany Alleged.**

Charged with spreading doctrines calculated to promote unrest and disloyalty among the men of the army and navy, six leaders of the International Bible Students' Association, which was founded by the late "Pastor" Charles T. Russell, were arrested yesterday afternoon in Brooklyn by United States Marshal James M. Power.

The arrests were made at the "Beth-el," the headquarters of the society, at 122 Columbia Heights, and among the men taken into custody was ex-Judge Joseph F. Rutherford, who is said to be the successor of "Pastor" Russell as the head of the organization. The sextet were saved from going to the City Prison for the night through a swift real estate transaction, by which one of the members of the association became temporary title holder to property of the society, enabling him to give bonds for the prisoners.

The Federal Grand Jury indictment, under which Rutherford and his associates were arrested, charges them with "unlawfully and willfully conspiring to cause insubordination, disloyalty, and refusal of duty of the military and naval forces of the United States." When arraigned before Judge Garvin in the United States District Court the accused all pleaded not guilty. Besides Rutherford, they were William E. Van Amburgh, A. Hugh McMillan, Robert J. Martin, Frederick H. Robinson, and Giovanni De Cecca. The first four named were held in \$5,000 bail each, and the other two in \$2,500 each.

When it came to the question of bail, the Russellites, as they are called, with the aid of a lawyer had a long debate with United States District Attorney France. They were told by Mr. France that the property of the association,

being that of a religious corporation, could not be accepted as security for their future appearance in court. The Trustees of the society then put their heads together and decided to transfer the title to the Columbia Heights property, which, they said, was worth \$100,000, to one of their number, John F. Stevenson. This was done, and Mr. Stevenson qualifying as bondsman, the prisoners were released pending a hearing next week. Neither of them would make any statement after leaving court.

There are four counts in the indictment, all charging disloyalty. Rutherford, McMillan, Van Amburgh and Martin are also charged with having sent money to a representative of the association in Germany. These funds—\$500, deposited in the name of the Watch Tower Bible and Tract Society in the Nassau National Bank, Manhattan—are said to have been withdrawn on Nov. 7 last and sent by draft to Barmen, Germany, through Zurich, Switzerland.

The indictment was based largely upon matter published in the Watch Tower and Kingdom News, publications issued by the society, and "The Finished Mystery," a work by the late "Pastor" Russell. The magazines contain letters written from Italy and having to do with the trial in that country of a member of the International Bible Students' Association for making defamatory remarks about military service.

ARREST MORE RUSSELLITES

Two Bible Student Preachers Charged with Aiding Germany.

Clayton J. Woodward and George H. Fisher, two more members of the organization founded by the late Pastor Russell, were taken into custody yesterday to answer to the Federal authorities for their alleged conspiracy to help Germany win the war by spreading discontent and disloyalty here. They live at Bethel House, 122 Columbia Heights, Brooklyn. Both said they were preachers connected with the International Bible Students' Association. They were in Scranton Wednesday, they said, and did not know of the arrest of their leader, J. F. Rutherford, and five of his followers until they got back.

When the first arrests were made the prisoners were saved from going to jail by a quick transfer of the real estate of the organization to one of the members. This done, the property was accepted as bail for the six prisoners. It was learned yesterday that this proceeding was not regular, and it is probable that in the default of any of the prisoners the Government would be in a legal fight to recover on the security accepted. It is said that arrangements are being made to furnish other bail. The security, however, that was offered for the six prisoners was accepted as bond for the two taken yesterday.

United States District Attorney France was asked whether the bond offered was irregular. He said that he would not reply to the question. "I am satisfied for the present," was his only answer. Fisher and Woodward were taken before Federal District Judge Edwin L. Garvin, who fixed bail at \$2,500 each. All the prisoners are over draft age.

WOULD LET SINNERS FIGHT.

Russellite Wants All "Consecrated Christians" Exempted.

Clayton J. Woodworth of Scranton, Penn., part author of "The Finished Mystery," was the principal witness yesterday at the trial of himself and eight other Russellites in the United States District Court in Brooklyn. His attention was called to a quotation which he caused to be placed in the book from a sermon by the Rev. John Haynes Holmes which reads:

"There is not a question raised, an issue involved, a course at stake (in the war) which is worth the life of one bluejacket on the sea or one khaki coat in the trenches."

Mr. Woodworth said it was from Dr. Holmes and he simply quoted from him, but admitted that he believed the quotation or he would not have incorporated it.

Special Prosecutor Isaac R. Oeland asked the witness about a part of the book in which Mr. Woodworth told of a minister dressed in army uniform and likened him to the bull at a slaughter house who led his fellows to death but evaded injury to himself, being trained to use a side door.

"I still believe it is a discredit for a minister to wear the uniform of the army and act as a decoy," Woodworth asserted, "and it is my belief that the ministers of the gospel in the aggregate are the greatest crowd of hypocrites that ever existed."

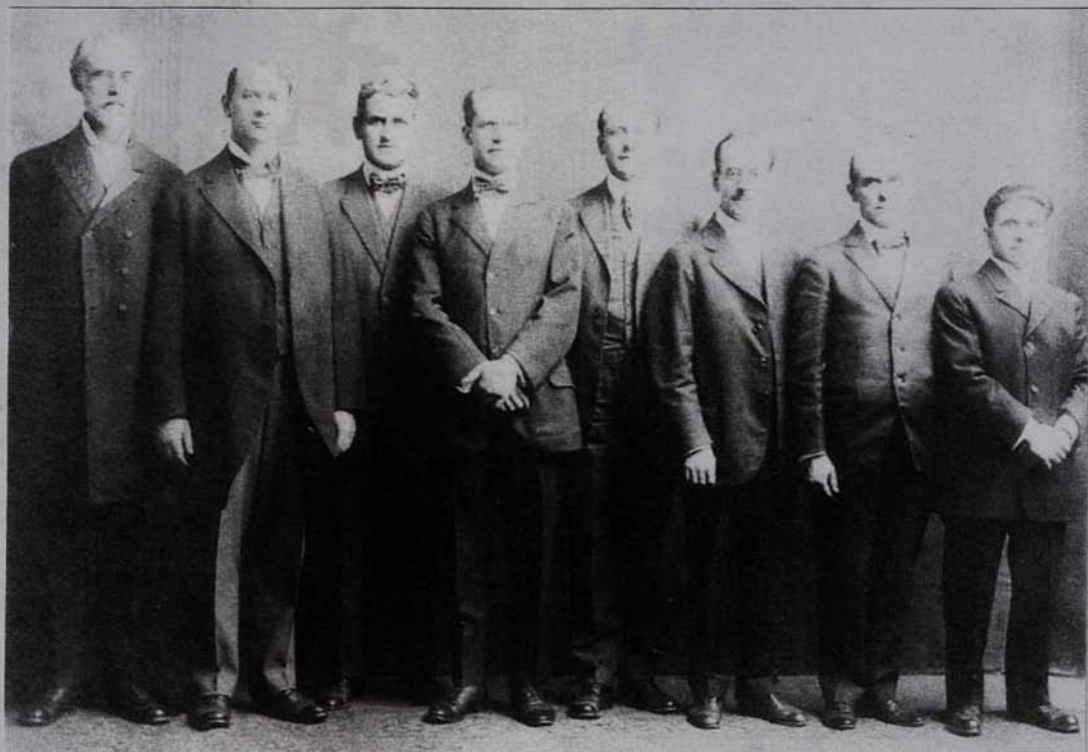
Woodworth said he was opposed to war and would not care to do military duty on the ground that he was a consecrated Christian. He said that among the Russellites those who did not become consecrated Christians were considered as sinners. He had no objection to sinners being called into service and losing their lives for their country.

"What do you think would become of the country if we all adopted your theories?" asked Judge Howe.

"If this people were wholly consecrated to the Lord the Lord would take care of them," replied Mr. Woodworth.

The trial will be continued this morning.

From left to right: W. E. Van Amburgh, J. F. Rutherford, A. H. Macmillan, R. J. Martin, F. H. Robison, C. J. Woodworth, G. H. Fisher, G. DeCecca





Federal Prison, Atlanta, Georgia 1920
Atlanta Federal Penitentiary, Inmate Case Files, 1902 - 1921
<http://www.archives.gov/southeast/finding-aids/atlanta-penitentiary/>

LAST NAME	FIRST NAME	INMATE NUMBER	RACE	AGE	COURT	CRIME	SCROLL DOWN HERE
Rutherford	Joseph F	8633	WH	49	Brooklyn, NY	Conspiracy and Violating Espionage Laws	http://www.archives.gov/southeast/finding-aids/atlanta-penitentiary/inmates-r-s.html
Woodworth	Clayton J	8638	WH	48	Brooklyn, NY	Conspiracy and Violating Espionage Laws	http://www.archives.gov/southeast/finding-aids/atlanta-penitentiary/inmates-t-z.html#w
DeCecca	Giovanni	8764	WH	40	Brooklyn, NY	Conspiracy and Violating Espionage Laws	http://www.archives.gov/southeast/finding-aids/atlanta-penitentiary/inmates-c-d.html#d
Van Amburgh	William E	8634	WH	55	Brooklyn, NY	Conspiracy and Violating Espionage Laws	http://www.archives.gov/southeast/finding-aids/atlanta-penitentiary/inmates-t-z.html#v
McMillan	Hugh A	8639	WH	41	Brooklyn, NY	Conspiracy and Violating Espionage Laws	http://www.archives.gov/southeast/finding-aids/atlanta-penitentiary/inmates-m-n.html
Martin	Robert J	8635	WH	40	Brooklyn, NY	Conspiracy and Violating Espionage Laws	http://www.archives.gov/southeast/finding-aids/atlanta-penitentiary/inmates-m-n.html
Robinson	Fred H	8636	WH	33	Brooklyn, NY	Conspiracy and Violating Espionage Laws	http://www.archives.gov/southeast/finding-aids/atlanta-penitentiary/inmates-r-s.html
Fisher	George H	8637	WH	48	Brooklyn, NY	Conspiracy and Violating Espionage Laws	http://www.archives.gov/southeast/finding-aids/atlanta-penitentiary/inmates-e-f-g.html#f

THE FINISHED MYSTERY



A HELPING HAND
FOR
BIBLE STUDENTS

presented to them as truth—they must 'try the spirits,' whether they be holy or evil, of God or of the Evil One—the Spirit of Truth or the spirit of error. These both are introduced by prophets, or teachers."—E329, 295.

[Like] AS IT WERE frogs.—Frogs are garrulous, have a very wise look, large mouths, are much puffed up and utter only croakings. In the "distress of nations with perplexity" which has come upon Christendom as a result of her sins, the croakings of the wise now fill the air everywhere. Actually all knees are "weak as water."—Ezek. 7:17; 21:7. See especially D i-xvi.

Come out of the mouth of the dragon.—The three fundamental truths of history are man's Fall, Redemption and Restoration. Stated in other language these three truths are the mortal nature of man, the Christ of God and His Millennial Kingdom. Standing opposite to these Satan has placed three great untruths, human immortality, the Antichrist and a certain delusion which is best described by the word Patriotism, but which is in reality murder, the spirit of the very Devil. It is this last and crowning feature of Satan's work that is mentioned first. The other two errors are the direct cause of this one. The wars of the Old Testament were all intended to illustrate the battlings of the New Creature against the weaknesses of the flesh, and are not in any sense of the word justification for the human butchery which has turned the earth into a slaughter-house. Nowhere in the New Testament is Patriotism (a narrow-minded hatred of other peoples) encouraged. Everywhere and always murder in its every form is forbidden; and yet, under the guise of Patriotism the civil governments of earth demand of peace-loving men the sacrifice of themselves and their loved ones and the butchery of their fellows, and hail it as a duty demanded by the laws of heaven.

"Everybody of importance in the early years of the twentieth century was an ardent champion of peace. A crowd of royal peacemakers in a world surcharged with thoughts and threats of war, a band of lovers strolling down an avenue which they themselves had lined with lyddite shells and twelve-inch guns. Prince Bulow, Sir Henry Campbell-Bannermann, Mr. H. H. Asquith, Mr. John Hay, and Mr. Elihu Root, pacific in temper, eloquent in their advocacy of the cause of international good will, were a galaxy of peace-loving statesmen under a sky black with the thunder-clouds of war. English and German papers were discussing invasions, and the need of increased armaments, at the very time that twenty thousand Germans in Berlin were applauding to the echo the friendly greetings

of a company of English visitors. While ten thousand boys and girls in Tokio were singing loving greetings to our naval officers, there were men in the United States rushing from city to city urging the people to prepare for an American-Japanese war. After each new peace conference there was a fresh cry for more guns. While the Palace of Peace at The Hague was building, nations hailed the advent of the airship as a glorious invention, because of the service it could render to the cause of war. The fountains from which there flowed these dark and swollen streams of war rumor were all located within the military and naval encampments. It was the experts of the army and navy who were always shivering at some new peril, and painting sombre pictures of what would happen in case new regiments were not added to the army and additional battleships were not voted for the fleet. It was in this way that legislative bodies came to think that possibly the country was really in danger; and looking round for a ground on which to justify new expenditures for war material, they seized upon an ancient pagan maxim—furnished by the military experts—‘If you wish peace, prepare for war.’ No guns were asked for to kill men with—guns were mounted as safeguards of the peace. No battleships were launched to fight with—they were preservers of the peace. Colossal armies and gigantic navies were exhibited as a nation’s ornaments—beautiful tokens of its love of peace. The expenditure crushed the poorest of the nations and crippled the richest of them, but the burden was gladly borne for the cause.

“The most virulent and devastating disease of humanity now raging on the earth is militarism. There are demon suggestions which obtain so firm a grip upon the mind that it is difficult to banish them. The naval experts of Germany are dragging the German Empire ever deeper into debt, unabashed by the ominous mutterings of a coming storm. The naval experts of England go right on launching Dreadnaughts, while the number of British paupers grows larger with the years, and all British problems become increasingly baffling and alarming. The naval experts of Russia plan for a new billion-dollar navy, notwithstanding Russia’s national debt is four and one-quarter billion dollars, and to pay her current expenses she is compelled to borrow seventy-five million dollars every year. With millions of her people on the verge of starvation, and beggars swarming through the streets of her cities and round the stations of her railways, the naval experts go on asking new appropriations for guns and military equipment.

"Like many another fever, militarism grows by what it feeds on, and unless checked by heroic measures is certain to burn the patient up. Bereft of reason are the nations by Satan's ingenious and terrible final beclouding of the minds of men.

"The militarist is comic in his seriousness. He says that if you want to keep the peace you must prepare for war, and yet he knows that where men prepare for war by carrying bowie knives, peace is a thing unheard of, and that where every man is armed with a revolver, the list of homicides is longest. Like many other diseases, militarism is contagious. One nation can be infected by another until there is an epidemic round the world. Is it possible, some one asks, for a world to become insane? That a community can become crazy was proven by Salem, in the days of the witchcraft delusion; that a city can lose its head was demonstrated by London, at the time of the Gunpowder Plot; that a continent can become the victim of an hallucination was shown when Europe lost its desire to live, and waited for the end of the world in the year 1000. Why should it be counted incredible that many nations, bound together by steam and electricity, should fall under the spell of a delusion, and should act for a season like a man who has gone mad?

"All the great nations are today facing deficits, caused in every case by the military and naval experts.

"Everything in Germany, Italy, Austria, England and Russia is held back by the confiscation of the proceeds of industry carried on for the support of the army and navy. In the United States the development of our resources is checked by this same fatal policy. We have millions of acres of desert land to be irrigated, millions of acres of swamp land to be drained, thousands of miles of inland waterways to be improved, harbors to be deepened, canals to be dug, and forests to be safeguarded, and yet for all these works of cardinal importance we can afford only a pittance. We have not sufficient money to pay decent salaries to our United States judges, or to the men who represent us abroad. We have pests, implacable and terrible, like the gypsy moth, and plagues like tuberculosis, for whose extermination millions of money are needed at once."—C. E. Jefferson, American Association for International Conciliation.—Z.'09-179.

The first expenditure of the United States Government (\$7,000,000,000), upon entering the world war, was 27% in excess of value of all the crops harvested in the United States in the banner year of its history. This amount would gridiron the country with macadam roads six miles

apart, east and west, north and south. It is double the capital and surplus of every bank in the country. It is equal to our entire cost for education, from kindergarten to university, for ten years.

"War is in open and utter violation of Christianity. If war is right, then Christianity is wrong, false, a lie. If Christianity is right, then war is wrong, false, a lie. The God revealed by Jesus, and by every spiritual leader of the race, is no God of battles. He lifts no sword—He asks no sacrifice of human blood. His spirit is love, His rule is peace, His method of persuasion is forgiveness. His law, as interpreted and promulgated by the Nazarene, is 'love one another,' 'resist not evil with evil,' 'forgive seventy times seven,' 'overcome evil with good,' 'love your enemies,' bless them that curse you, do good to them that hate you, pray for them which despitefully use you and persecute you.' Such a God and such a law, others may reconcile with war, if they can. I cannot; and what I cannot do, I will not profess to do. But I must go farther—I must speak not only of war in general, but of this war in particular. Most persons are quite ready to agree, especially in the piping times of peace, that war is wrong. But let a war cloud no bigger than a man's hand appear on the horizon of the nation's life, and they straightway begin to qualify their judgment; and if the war cloud grows until it covers all the heavens, they finally reverse it.

"This brings about the curious situation of all war being wrong in general, and each war being right in particular. Germans denounce war, with the exception of course of the present conflict with England. Englishmen condemn war, but exclude from their indictment the present fight against the central Empires. If you tell me that this war is fought for the integrity of international law, I must ask you why it is directed only against Germany and not also against England, which is an equal, although far less terrible, violator of covenants between nations? If you say it is fought on behalf of the rights of neutrals, I must ask you where, when and by what belligerent the rights of neutrals have been conserved in this war, and what guarantee you can offer that, after all our expenditure of blood and money for their defense, these rights will not be similarly violated all over again in the next war by any nation which is battling for its life? If you say that it is fought for the security of American property and lives, I must ask you how and to what extent it will be safer for our citizens to cross the seas after the declaration of war than it was before? If you say that it is fought in vindication

of our national honor, I must ask you why no harm has come to the honor of others nations, such as Holland and Scandinavia, for example, which have suffered even more than we, but which, for prudential reasons, refuse to take up arms? If you say it is a war of defense against wanton and intolerable aggression, I must reply that every blow which we have endured has been primarily a blow directed not against ourselves but against England, and that it has yet to be proved that Germany has any intention or desire of attacking us. If you say that this war is a life-and-death struggle for the preservation of civilization against barbarism, I must ask you why we remained neutral when Belgium was raped, and were at last aroused to action, not by the cries of the stricken abroad, but by our own losses in men and money? If you say that this war is a last resort in a situation which every other method, patiently tried, has failed to meet, I must answer that this is not true—that other ways and means of action, tried by experience and justified by success, have been laid before the administration and wilfully rejected.

"In its ultimate causes, this war is the natural product of our unchristian civilization. Its armed men are grown from the dragon's teeth of secret diplomacy, imperialistic ambition, dynastic pride, greedy commercialism, economic exploitation at home and abroad. In the sowing of these teeth, America has had her part; and it is therefore only proper, perhaps, that she should have her part also in the reaping of the dreadful harvest. In its more immediate causes, this war is the direct result of unwarrantable, cruel, but none the less inevitable interferences with our commercial relations with one group of the belligerents. Our participation in the war, therefore, like the war itself, is political and economic, not ethical, in its character. Any honor, dignity, or beauty which there may be in our impending action, is to be found in the impulses, pure and undefiled, which are actuating many patriotic hearts today, and not at all in the real facts of the situation. The war itself is wrong. Its prosecution will be a crime. There is not a question raised, an issue involved, a cause at stake, which is worth the life of one blue-jacket on the sea or one khaki-coat in the trenches."—Rev. John Hayes Holmes, Church of the Messiah, Park Ave. and 34th St., New York City.

And out of the mouth of the beast,—The Antichrist doctrine of the Divine right of the clergy was the direct cause of the great war. This frog has been coming out of the mouth of the Papal beast for sixteen centuries. "The German Kaiser's reported proclamation to his army in

Poland reads: 'Remember you (my army) are God's elect. God's spirit has descended on me because I am Emperor of Germany. I am Jehovah's sword, His representative, the instrument of the Most High. Woe and death be to those who resist my will! and to all who do not believe my mission, and to cowards in my army! The enemies of the German people shall perish. God demands their destruction. He it is who through me commands you to fulfill His will!' These false doctrines of the Dark Ages are bearing a terrible fruitage in the present war. Similarly the teaching of eternal torment, misrepresenting and blaspheming God's character, is bearing an evil fruitage. Millions of people are being turned away from faith in a God of Love and from faith in the Bible as His Message by the most monstrous blasphemies of the Dark Ages. I charge the responsibility of all this against the sects and creeds of Christendom. I charge that the ministers, whose eyes are now open to a saner comprehension, have neglected the Bible, have neglected the people, and, instead of helping them out of the darkness, are now leading them into darkness in an opposite direction—into Evolution and Higher Criticism and everything contrary to the Word of God. God is still misrepresented in the world. The creeds of the Dark Ages are still hugged to the bosom in outward pretense, while inwardly they are loathed. A great fraud, a great hypocrisy, you say? I answer, Yes; the most astounding the world has ever known. Two hundred thousand professed ministers of God and of Christ are standing before the world today telling the legends of the Dark Ages and seeking to hinder the people from coming to a knowledge of the Truth, meanwhile receiving the people's money and reverence. Does not such hypocrisy, such blasphemy against God, such deception of the people, such keeping of them in darkness, deserve a great punishment, and is it not nigh?"—B. S. M.

"In all the warring countries the professed ministers of Christ are acting as recruiting agents. All kinds of arguments are used to persuade the young men of the country, contrary to the teachings of the Master. The same men who are accustomed to laugh at the declaration that the Turkish soldiers in former wars were promised, in the event of death, a sure passport to Heavenly Paradise—these same ministers are now urging all the eligible with whom they have influence to prepare to go to battle to lay down their lives. While the Germans have on every battle flag and upon their soldiers' belts, 'God with us,' the British ministers are quoting Bible texts to encourage enlistment of their young men and to throw a halo of

glory upon their soldier dead." (Z.'15-267.) "The clergy are finding themselves in a tight place. They are expected to be faithful to their country, right or wrong. They are expected to preach the War as the will of God and the going to war as a meritorious matter that will have Divine reward and blessing. They must encourage recruiting, in obedience to the commands of their earthly king, and in violation of the commands of the Heavenly King, who has directed them to be peacemakers, and to follow peace with all men and do no murder, either under legal sanction or otherwise." (Z.'15-276.) "Recently in Canada the Editor was astounded by the activity of the preachers there—especially those of the Church of England. One was out in khaki uniform marching through the streets with the volunteers. Asked by a college friend, 'Did I see you in the ranks?' he answered, 'Yes, I wanted to encourage the boys.' 'And did you think of going to the front, to the trenches?' 'Not a bit of it!' He was merely acting as a decoy to get others to the front; just as a bull which they have at one of the Chicago stock-yards, meets the animals about to be slaughtered and, tossing his head in the air, becomes their leader up the gangway leading to the slaughter. There he knows his little niche, into which he glides and is sheltered; while the others drive and press one another forward to the slaughter."—Z.'15-259.

And out of the mouth of the false prophet.—The one cardinal error upon which all protestant (false prophet) sects agree is the doctrine of human immortality, the original lie told in Eden (Gen. 2:17; 3:4). In speaking of it our Lord says, "When he speaketh *the* lie, he speaketh of his own." (John 8:44, Diaglott.) Speaking of it again, the Apostle Paul says, of the worshipers of the beast and his image, "They admitted not the love of the Truth that they might be saved. And on this account God will send to them an energy of delusion, to their believing the falsehood." (2 Thes. 2:10, 11.) In each case the Greek gives the definite article. The frog issuing from the false prophet (the image of the beast) is the doctrine of human immortality. These deluded souls actually believe this error, and will be able to prove it to the satisfaction of the dragon, without a doubt. This error lies at the bottom of the doctrines of eternal torment and of the trinity. There is a hint in 1 John 4:1-3 that the cardinal error on which the false prophet will insist is that when Jesus came from the Father He was more than flesh, i. e., had at least an immortal soul.—Rev. 13:11, 13, 14, 15; 14:9, 11; 15:2; 16:2; 19:20; 20:10; Matt. 24:24.

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CHURCH FEDERATION

"If the Wesleyans and the Church of England should reunite in the land of Wesley, what effect would it have on the Methodist body in this land?" asks *The Literary Digest*.

"The Churchman" (New York) hopes that the present discussion of the projected union in England will result in the drawing together of two separated religious communions.

"The Guardian" (London) publishes a letter from a Methodist clergyman, in which he says:

"We are asking whether the Church of England will allow Wesleyan ministers either to receive conditional ordination or, alternatively, to be ordained in a formula which would substitute the words 'Church of England' for the words 'Church of God' in the Prayer-Book formula. We are asking whether confirmation might, during a period of transition, be regarded as a domestic institution, not to be too rigidly enforced upon adult outsiders. We can see that some concessions must be made for the sake of healing our unhappy divisions, and many of us are prepared, with that end in view, to accept reordination, even sans phrase if that should be absolutely necessary."

METHODISM IN HOLY WRIT

As might have been expected, all the prominent Protestant systems are brought to our attention in the Revelator's depiction of the Papacy and the Reformation. To whatever extent the "daughters" have followed the course of the Mother Church in hiding the increasing light of Truth which discredits their time-worn creeds, to that extent the Lord has held them in derision. The following is the exposition of Revelation 9:1-12, in "THE FINISHED MYSTERY," announced on page 4 of this paper:

9:1. And the fifth angel sounded.—The Reformation trumpets are referred to, four of which had sounded previous to the one here mentioned. The Lutheran, Anglican, Presbyterian and Baptist movements preceded the Wesleyan, which is now represented in fifteen kinds of Methodist organizations.—1 Cor. 3:3.

And I saw a star.—John Wesley became a star in the Anglican heavens in 1728, at which time he was ordained a priest by Bishop Potter.

Fall from heaven unto the earth.—Brother Wesley tore a large-sized hole in the ecclesiastical heavens when he began the manufacture of a firmament of his own. His work grew rapidly, particularly in America. Says the *Encyclopedia Britannica*, "The preachers in the South determined upon administration of the sacraments, and a committee was chosen who ordained themselves and others. John Wesley, aided by two presbyters of the Church of England, early in 1784, ordained Thomas Coke, a presbyter of that Church, as Superintendent."

In 1787 the American Conference changed Mr. Coke's title to "Bishop."

It must have been a strange sight to see a bright man like Wesley engaging those two presbyters of the Church of England to help him ordain somebody to a higher office than any of them had ever held. But the plan worked. All Methodists believe that Bishop Coke, the first Bishop of the Methodist Church, received some "apostolic succession." These brethren have been grieved that Pastor Russell did not get his ordination from the same source.

And to him was given the key of the [bottomless] pit [OF THE ABYSS].—Wesley was given the key to nothing and to nowhere.

9:2. [And he opened the bottomless pit.]—Wesley opened nothing. He

(Continued on Page 2, Column 1.)

*Words not in Snaitle MS. are enclosed in brackets. The Snaitle MS. is the oldest known copy of Scriptures.

†Words in Snaitle MS. which do not appear in "Authorized" Version are printed in capitals.

THE FALL OF BABYLON

Ancient Babylon a Type—Mystic Babylon the Antitype

WHY CHRISTENDOM MUST NOW SUFFER—THE FINAL OUTCOME

The following article is extracted mainly from Pastor Russell's posthumous volume entitled "THE FINISHED MYSTERY," the 7th in the series of his STUDIES IN THE SCRIPTURES and published subsequent to his death. Pastor Russell held the distinction of being the most fearless and powerful writer of modern times on ecclesiastical subjects. In this posthumous volume, which is called "his last legacy to the Christians of earth," is found a thorough exposition of every verse in the entire book of Revelation and also an elucidation of the obscure prophecy of Ezekiel. The book contains 608 pages, is handsomely bound in embossed cloth, 50c postpaid. Orders may be sent through us, if preferred.—Editorial Note.

THE various prophecies of Isaiah, Jeremiah, Daniel and the Apocalypse concerning Babylon are all in full accord, and manifestly refer to the same great city. And since these prophecies had but a very limited fulfillment upon the ancient literal city, and those of the Apocalypse were written centuries after the literal Babylon was laid in ruins, it is clear that the special reference of all the Prophets is to something of which the ancient literal Babylon was an illustration. It is clear also that, in so far as the prophecies of Isaiah and Jeremiah concerning its downfall were accomplished upon the literal city, it became in its downfall, as well as in its character, an illustration of the great city to which the Revelator points in the symbolic language of the Apocalypse (Chapters

9:8); and likewise there is a nominal Spiritual Zion, and a nominal fleshy Zion. (See Isa. 33:14; Amos 6:1.) But let us examine some of the wonderful correspondences of Christendom to Babylon, its type, including the direct testimony of the Word of God on the subject. Then we will note the present attitude of Christendom, and the present indications of her foretold doom.

The Revelator intimated that it would not be difficult to discover this great mystical city, because her name is in her forehead; that is, she is prominently marked, so that we cannot fail to see her unless we shut our eyes and refuse to look—"And upon her forehead was a name written, Mystery, Babylon the Great, the Mother of Harlots and abominations of the earth." (Rev. 17:5.) But be-

hundred and fifty in number, placed along the outer and inner edges of the wall, tower facing tower; and in these walls were a hundred brazen gates, twenty-five on each side, corresponding to the number of streets which intersected each other at right angles. The city was adorned with splendid palaces and temples and the spoils of conquest.

Nebuchadnezzar was the great monarch of the Babylonian empire, whose long reign covered nearly half the period of its existence, and to him its grandeur and military glory were chiefly due. The city was noted for its wealth and magnificence, which brought a corresponding moral degradation, the sure precursor of its decline and fall. It was wholly given to idolatry, and was full of iniquity. The people were worshippers of Baal, to whom they offered human sacrifices. The deep degradation of their idolatry may be understood from God's reproof of the Israelites when they became corrupted by contact with them.—See Jer. 17:9; 19:5.

Nebuchadnezzar was succeeded in the dominion by his grandson Belshazzar, under whose reign came the collapse which pride, fulness of bread and abundance of idleness always insure and hasten. While the people, all unconscious of impending danger, following the example of their king, were abandoning themselves to demoralizing excesses, the Persian army, under Cyrus, stealthily crept in through the channel of the Euphrates (from which they had turned aside the water), massacred the revelers, and captured the city. Thus was fulfilled the prophecy of that strange handwriting on the wall—"Mene, Mene, Tekel, Upharsin"—which Daniel had interpreted only a few hours before to mean, "God hath numbered thy kingdom and finished it. Thou art weighed in the balance and art found wanting. Thy kingdom is divided and given to the Medes and Persians." So complete was the destruction of that great city that even its site was forgotten and was for a long time uncertain.

Such was the typical city; and, like a great millstone cast into the sea, it was sunken centuries ago, never again to rise; even the memory of it has become a reproach and a byword. Now let us look for its antitype, first observing that the Scriptures clearly point it out, and then noting the aptness of the symbolism.

Mystic Babylon—"Christendom"

In symbolic prophecy a "city" signifies a religious government backed by power and influence. Thus, for instance, the "Holy City, the New Jerusalem" is the symbol used to represent the established Kingdom of God, the overcomers of the Gospel Church exalted and reigning in glory. The Church is also, and in the same connection, represented as a woman, "the Bride, the Lamb's Wife," in power and glory, and backed by the power and authority of Christ, her Husband. "And there came unto me one of the seven angels . . . saying, Come hither, I will show thee the Bride, the Lamb's Wife. And he . . . showed me that great city, the holy Jerusalem."—Rev. 21:9, 10.

This same method of interpretation applies to Mystical Babylon, the great

(Continued on Page 2, Column 2.)



THE HANDWRITING ON THE WALL

17 and 18), and to which chiefly the other Prophets refer.

As already intimated, what to-day is known as Christendom is the antitype of ancient Babylon; and therefore the solemn warnings and predictions of the Prophets against Babylon—Christendom—are matters of deepest concern to the present generation. Would that men were wise enough to consider them! Though various other symbolic names, such as Edom, Ephraim, Ariel, etc., are in the Scriptures applied to Christendom, this term, "Babylon," is the one most frequently used, and its significance, confusion, is remarkably appropriate. The Apostle Paul also points out a nominal Spiritual Israel in contradistinction to nominal Fleshy Israel (1 Cor. 10:13; Gal. 6:16; Rom.

fore looking for this Mystical Babylon, let us first observe the typical Babylon, and then, with its prominent features in mind, look for the antitype.

The name Babylon was applied, not only to the capital city of the Babylonian empire, but also to the empire itself. Babylon, the capital, was the most magnificent, and probably the largest, city of the ancient world. It was built in the form of a square on both sides of the Euphrates river; and, for protection against invaders, it was surrounded by a deep moat filled with water and inclosed within a vast system of double walls, from thirty-two to eighty-five feet thick, and from seventy-five to three hundred feet high. On the summit were low towers, said to have been two

THE BIBLE STUDENTS MONTHLY REFORMERS vs.

THE FALL OF BABYLON

(Continued from Page 1, Column 4.)

ANTICHRIST

Through the press and through leaflets the story is being widely circulated that Kaiser Wilhelm is the Antichrist. This is not the Bible view, however. There Antichrist is set forth as a system, not as an individual. According to the Reformers the real Antichrist is the Papacy. The effort to make the people believe that the Kaiser is Antichrist is doubtless a deception—dust-throwing—Papal camouflage, to divert attention from the real Antichrist—Papacy.

Everyone knows that the Kaiser is an instrument of the Devil. To accomplish his purpose, Satan appears as an angel of light. (2 Cor. 11:14.) To prevent people from seeing the real Antichrist, he directs attention to a lesser instrument of his.

The Apostles prophesied that Antichrist would arise in the Church. Afterwards many recognized the Papacy as Antichrist. Below we give the united testimony of the seven greatest reformers since Christ's day.

(1) ST. PAUL said: "That Day shall not come except there come a falling away [Romanish apostasy] first, and that Man of Sin [Papacy] be revealed, the son of perdition [destruction]; who opposeth and exalteth himself above all that is called God or is worshiped; so that he as God [vicegerent] sitteth in the Temple of God."—2 Thess. 2:2, 3.

(2) ST. JOHN—"Ye have heard that Antichrist [Papacy and Protestantism together] shall come. He is Antichrist that denieth [disowns in word or deed] the Father and the Son; . . . even already now it [the Papal-Protestant aggregation] is in the world." A man child [Papacy] was to rule all nations with a rod of iron. A [wild] beast [a wicked, ungovernable church ruling like a fierce, evil government] out of the sea [peoples], having seven heads and ten horns [nations], upon his horns ten crowns and upon his heads the names of blasphemy. A woman [mother of apostate churches, her daughters] sat upon a scarlet colored beast [so-called Christendom], holding a golden cup full of abominations and filthiness of her [church-state] fornication, and upon her forehead [in her mind, teachings] a name written, Mystery, Babylon the Great, Mother of Harlots [the apostate Protestant churches, her daughters]; etc.—See 1 John 2:18, 22; 4:3; Rev. 12:5; 13:1; 17:3-5, 6, 11, 18.

(3) ARIUS believed in the coming of Antichrist in the Church. He was banished by the Papacy and his writings destroyed.

(4) PETER WALDO: The Waldensian "Treatise on Antichrist," written in 1170 A. D., brands the Romish Church as "The Harlot, Babylon, and Papacy as the Man of Sin and Antichrist."

(5) JOHN WYCLIFFE: "As touching the Pope, I owe him neither suit nor service, forasmuch as I know him by the Scriptures to be Antichrist, the son of perdition, the open Adversary of God, and an abomination standing in the Holy Place."

(6) MARTIN LUTHER: "I am assured that the popedom is antichristian and the seat of Satan—Antichrist of the Scriptures. Antichrist, as the Scripture witnesseth, sitteth not in a stable of fiends, nor in a swine-sty, nor in a company of infidels, but in the highest and holiest place of all—the Temple of God."

(7) PASTOR RUSSELL, the great twentieth century Reformer, writes about the Papal-Protestant combination in Vols. 2, 3 and 7 of his STUDIES IN THE SCRIPTURES. Read them; and you will see through the Papal-Protestant scheme to get control again, as in the clergy-ruled Dark Ages, throttle free speech, destroy liberty and rule Christendom through priests and preachers.

Antichrist and Image of the Beast.

Just as J. P. Morgan, one of the prime movers for church federation, "financiered" the New Haven Railway and drained its very life-blood, so the Papacy and the Federal Council of Churches, are now preparing to grab everything in sight. Preliminary to this, and to close the people's eyes to the recognition of Papacy as the Antichrist of the Scriptures, an ingenious attempt is being made to show that Kaiser Wilhelm is Antichrist, and that he will end his reign in February, 1918. That the war will end in February by the Papacy's accomplishing the Kaiser's overthrow, we think, is quite reasonable; but this will put the real Antichrist (Papacy) in power.

Then beware!—for the Pope can never exert temporal power, either directly or indirectly in this country, without real trouble for the whole Papal-Protestant-episcopal aggregation! See Volume VII of SCRIPTURE STUDIES for particulars.

ecclesiastical kingdom, "that great city" (Rev. 17:1-6), which is described as a harlot, a fallen woman (an apostate church;—for the true Church is a virgin), exalted to power and dominion, and backed, to a considerable degree, by the kings of the earth, the civil powers, which are all more or less intoxicated with her spirit and doctrine. This apostate church lost her virgin purity. Instead of waiting, as an espoused and chaste virgin, for exaltation with the Heavenly Bridegroom, she associated herself with the kings of the earth and prostituted her virgin purity—of both doctrine and character—to suit the world's ideas; and in return she received, and now to some extent exercises, a present dominion, in large measure by their support, direct and indirect. This unfaithfulness to the Lord, whose name she claims, and to her high privilege to be the "chaste virgin" espoused to Christ, is the occasion of the symbolic appellation "harlot," while her influence as a sacerdotal empire, full of inconsistency and confusion, is symbolically represented under the name Babylon, which, in its widest sense, as symbolized by the Babylonian empire, we promptly recognize to be Christendom; while in its more restricted sense, as symbolized by the ancient city Babylon, we recognize to be the nominal Christian church.

It has been very generally and very properly claimed by Protestants that the name "Babylon" and the prophetic description are applicable to Papacy, though recently a more compromising disposition is less inclined so to apply it. On the contrary, every effort is now made on the part of the sects of Protestantism to conciliate and imitate the Church of Rome, and to affiliate and co-operate with her. In so doing they become part and parcel with her, while they justify her course and fill up the measure of her iniquities, just as surely as did the scribes and Pharisees fill up the measure of their fathers who killed the Prophets. (Matt. 23:31, 32.) All this, of course, neither Protestants nor Papists are ready to admit, because in so doing they would be condemning themselves. And this fact is recognized by the Revelator, who shows that all who would get a true view of Babylon must, in spirit, take their position with the true people of God "in the wilderness"—in the condition of separation from the world and worldly ideas and more forms of godliness, and in the condition of entire consecration and faithfulness to and dependence upon God alone. "So he carried me away in the spirit into the wilderness; and I saw a woman, Babylon."—Rev. 17:1-5.

And since the kingdoms of the civilized world have submitted to be largely dominated by the influence of

hand of recompense in that they also are to some extent bound in with the nations of Christendom by various interests, commercial and others; and justly, too, in that they also have failed to appreciate what light they have seen, and have loved darkness rather than light, because their deeds were evil. Thus, as the Prophet declared, "All the earth [society] shall be devoured with the fire of God's jealousy" (Zeph. 3:8); but against Babylon, Christendom, because of her greater responsibility and misuse of favors received, will burn the fierceness of His wrath and indignation.

But some sincere Christians, not yet awake to the decline of Protestantism, and who do not realize the relationship of the various sects to Papacy, but who perceive the unrest and the doctrinal upheavals in all the religious systems, may still be anxiously inquiring, "If all Christendom is to be involved in the doom of Babylon, what will become of Protestantism, the result of the Great Reformation?" This is an important question; but let the reader consider that Protestantism, as it exists to-day, is not the result of the Great Reformation, but of its decline; and it now partakes to a large degree of the disposition and character of Rome, from which it sprang.

Babylon—Mother and Daughters

The Protestant sects (and we say it with all due deference to a comparatively few devout souls within them, whom the Lord designates as "wheat" in contradistinction to the overwhelming numbers of "tares") are the true daughters of that degenerate system of nominal Christianity, the Papacy, to which the Revelator makes reference in applying to her the name "Mother of harlots." (Rev. 17:5.) And let it not pass unobserved that both Romanists and Protestants now freely own the relationship of mother and daughters, the former continually styling herself the Holy Mother Church, and the latter, with pleased complacency, endorsing the idea, as shown by many public utterances of leading Protestant clergymen and laymen. Thus they "glory in their shame," apparently all unmindful of the brand which they thus accept from the Word of God, which designates the Papacy as "the mother of harlots." Nor does the Papacy, in claiming her office of motherhood, ever seem to have questioned her right to that title, or to have considered its incompatibility with her profession still to be the only true Church, which the Scriptures designate a "virgin" espoused to Christ. Her acknowledged claims of motherhood are to the everlasting shame of both herself and her offspring. The true Church, which God recognizes, but which the world knows not to still a virgin; and from her pure and holy estate no daughter systems have ever sprung. She is still a chaste virgin, true to Christ, and dear to Him as the apple of His eye. (Zech. 2:8; Isa. 62:5, 8.) The true Church cannot be pointed out anywhere as a company from which all the tares have been separated, but it consists only of the true "wheat," and all such are known unto God, whether the world recognizes them or not.

But let us see how the Protestant systems sustain this relationship of daughters to Papacy. Since Papacy, the mother, is not a single individual, but a great religious system, in keeping with the symbol we should expect to see other religious systems answering to the illustration of daughters of similar character—not, of course, so old, or necessarily so depraved, as Papacy, but nevertheless "harlots" in the same sense, i.e., religious systems claiming to be either the espoused Virgin or the Bride of Christ, and yet courting the favor and receiving the support of the world, at the price of disloyalty to Christ. To this description the various Protestant organizations fully correspond. They are the great daughter systems. The birth of these various daughter systems came in connection with reforms from the corruptions of the "Mother Church." The daughter systems parted from the mother under circumstances of travail, and were born virgins. However, they contained more than true reformers; they contained many who still had the spirit of the mother, and they inherited many of her false doctrines and theories; and it was not long until they fell into many of her bad practices and proved their characters true to the prophetic stigma—"harlots."

But let it not be forgotten that while the various reformation movements did valuable work in the "cleansing of the Sanctuary," yet only the Temple class, the Sanctuary class, has ever been the true Church, in God's reckoning. The great human systems called churches have never been more than nominally the Church. They all belong to a false system which counterfeits, misrepresents and hides from



EMPEROR LOUIS BEFORE THE ROPE

the great ecclesiastical systems, especially Papacy, accepting from them the appellations "Christian nations" and "Christendom," and accepting on their authority the doctrine of the "Divine right of kings," etc., they also link themselves in with great Babylon, and become part of it, so that, as in the type, the name Babylon applied, not only to the city, but also to the whole empire, here also the symbolic term "Babylon" applies, not only to the great religious organizations, Papal and Protestant, but also, in its widest sense, to all Christendom.

Hence this day of judgment upon Mystic Babylon is the day of judgment upon all the nations of Christendom; its calamities involve the entire structure—civil, social and religious; and individuals will be affected by it to the extent of their interest in, and dependence upon, its arrangements.

The nations beyond Christendom also feel the weight of the heavy

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METHODISM IN HOLY WRIT

(Continued from Page 1, Column 1.)

did interpret Rom. 8:21 as meaning that the lower animals would go to heaven, but that was an error. He was honest enough, however, to object to using the word Trinity because he did not find it in the Bible. "Christian Advocates" please note.

And there arose a smoke.—Confusion—a blinding haze.

[Out of] OVER the pit.—In the "air," the ecclesiastical heavens.

As the smoke of a great furnace.—Methodism was no ordinary smoke.

And the sun.—The true Gospel.

And the air.—The Anglican Church.

Were darkened by reason of the smoke of the pit.—Methodism damaged the Anglican communion as much as it did the Truth.

9:3. And there came out of the smoke locusts.—An immense number of followers.—Judges 4:14.

Upon the earth.—Among order-loving people.

And unto them was given power.—To attend an one-time Methodist meeting and witness the "giving the power" was to see the sight of a lifetime.

As the scorpions of the earth have power.—A well-known injurious insect of hot climates. The scorpion, which is situated at the extremity of the tail, has at its base a gland that secretes a poisonous fluid, which is discharged into the wound by two minute orifices at its extremity. The scorpion makes a painful wound in men and beasts which produces fatal results unless speedy remedies be provided such as scarifying the wound or sucking out the poison.—McClintock and Strong.

9:4. And it was commanded them that they should not hurt the grass of the earth.—men of independent thought.—Rev. 8:7.

[Neither any green thing.] Neither any tree.—Saint.—Rev. 8:11.

But [only] those men.—The unconverted.

Which have not the seal of God in their foreheads.—Methodists understand that to be converted from being a sinner means to have the seal of God in one's forehead. All the energies of that church are devoted to gathering in goats to the sheepfold.

9:5. And to them it was given that they should not kill them.—No such sane and merciful sentence as "The wages of sin is death" has any place in Methodist theology. Wesley was born at a time when the original meaning of the word "hell" had become hidden, and was saturated with the later teachings that it signifies a place of torment. He threw his whole heart into the work of spreading this error throughout the earth.

But that they should be tormented five months.—In symbolic time, 150 years.—5x3=150. (Ezek. 4:6.) Wesley became the first Methodist in 1728. (Rev. 9:1.) When the Methodist denomination, with all the others, was cast off from favor in 1878 (Rev. 9:14) its powers to torment men by preaching what Presbyterians describe as "Conscious misery, eternal in duration" came to an end legally, and to a large extent actually.—Rev. 9:10.

And their torment.—The torment of those tormented by the tormenting doctrine of torment.

Was as the torment of a scorpion, when he striketh a man.—See Rev. 9:10.

9:6. And in those days.—Throughout the 150 years of widely prevalent "Methodist hell-fire."

Shall men seek death.—Would be glad to know that "The wages of sin is death."—Rom. 6:23.

And shall not find it.—Because all the texts which plainly teach that "All the wicked will God destroy," were perverted to mean "All the wicked will God immortalize in hell."

And shall desire to die.—Real men would prefer to die and stay dead rather than forever companion and worship the greatest devil of the Universe.

And death shall flee from them.—They were told that men only seem to die, although touch, hearing, sight and smell all bear eloquent testimony to the contrary.—Rom. 6:23; Ezek. 18:4; Gen. 3:19; Psa. 115:17; Ecc. 9:5; Psa. 37:10, 20; Ecc. 3:19-21; 1 Cor. 15:13, 18; Dan. 12:2.

the world the true Church, which is composed only of fully consecrated and faithful believers, who trust in the merit of the one great Sacrifice for sins. These are to be found scattered here and there within and outside of these human systems, yet always separate from their worldly spirit. They are the "wheat" class of our Lord's parable, clearly distinguished by Him from the "tare." Not comprehending the real character of these systems, as individuals they have humbly walked with God, taking His Word as their counselor and His Spirit as their guide. Nor have they ever been at ease in nominal Zion, where they have often painfully observed that the spirit of the world, operating through the unrecognized "tare" element, endangered spiritual prosperity. They are the blessed mourners in Zion, to whom God hath appointed "beauty for ashes, and the oil of joy for mourning." (Matt. 5:4; Isa. 61:3.) It is only in this "Harvest" time that the separation of this class from the "tare" element is due; for it was the Lord's purpose to "let both grow together until the Harvest [the time in which we are now living]." (Matt. 13:30.) Hence it is that this class is now being awakened to a realization of the real character of these condemned systems, because the "Harvest," the separating time, has come.

REVELATOR'S VISION OF OUR DAY

Let us now note some of the Revelator's allusions to Babylon.

17:1, 2. And there came one of the seven angels which had the seven vials, and talked with me, saying, Come hither; I will shew unto thee the judgment of the great whore that sitteth upon many waters, with whom the kings of the earth have committed fornication and the inhabitants of the earth have been made drunk.—The vision relates to the outpouring of the seven last plagues upon Babylon (Christendom) at the present time. The "great whore" refers to the "Mother Church," the "Mother of harlots," Papacy, which is the recognized parent of all the Protestant sects which have affiliated with earthly governments instead of keeping their virginity until Christ, the Heavenly Bridegroom, should come to receive His Bride unto Himself and to establish His long-promised Kingdom. Verse 15 explains that "the waters whereon the whore sitteth are peoples and nations" on which she is, of course, dependent. The kingdoms of Europe today claim to be Christian kingdoms, and announce that their sovereigns reign "by the grace of God," i.e., through appointment of either Papacy or some of the Protestant sects. So great an institution as made all nations drunk with her false doctrines must be very prominent to those who were made so under the influence of the stupefying draught from her cup. "The wine of her fornication" has reference to the mixed doctrines, part truth and part error, that originally led to the union of church and state—spiritual harlotry.—Jer. 51:7; Rev. 17:5; 18:3; Ezek. 16:15.

17:3. So he carried me away in the spirit into the wilderness; and I saw a woman sit upon a scarlet colored beast, full of names of blasphemy; having seven heads and ten horns.—The "woman" refers to the same character mentioned above, the Papacy; and the "scarlet-colored beast" is Pagan Rome and its successors. The symbol "beast" throughout the Bible alludes to governments. Concerning the "names of blasphemy," we quote from Ferraris' Ecclesiastical Dictionary, a Standard Roman Catholic authority, as given under the word papa, article 2d: "The Pope is of such dignity and highness that he is not simply a man but as it were, God, and the vicar [representative] of God. . . . Hence the Pope is crowned with a triple crown, as king of Heaven, of earth and of hell. Nay, the Pope's excellence and power are not only above Heavenly, terrestrial and infernal things, but he is also above angels, and is their superior; so that if it were possible that angels could err from the faith, or entertain sentiments contrary thereto, they could be judged and excommunicated by the Pope."

As for the "seven heads and ten horns" of the beast: the Eastern, or Byzantine Empire, was founded in A. D. 395, when Theodosius divided the Roman Empire between his two sons, Honorius and Arcadius, assigning to the latter all the portion lying east of

the Adriatic Sea. At this time the Roman Empire became the two legs of Nebuchadnezzar's vision. At the time the division was made the five potential races in the East were the Greeks, Lombards, Ostrogoths, Heruli and Vandals. The five potential races in the West were the Franks, Britons, Saxons, Visigoths and Suevi. During the next one hundred and fifty years great migrations and invasions have so confused history that there is great difference of opinion among historians on many important details. It is plain, however, that three of the migratory races disappeared from history, all within a few years of each other, apparently in order to leave Rome and its environs free for the development of the Papacy. The Heruli, a race from Germanic territory, disappeared from Italian territory in A. D. 489; the Vandals, a race from the shores of the Baltic (never in control of Rome except on a brief raid, but a great enemy of the Papacy), disappeared in A. D. 534; and the Ostrogoths, an Asiatic race, in A. D. 539. The Western Empire itself disappeared in A. D. 476. The matter is treated by Pastor Russell at greater length in Vol. III of his "Studies in the Scriptures," pp. 76, 77, and all his statements are, of course, correct. See Dan. 7:7, 20; Rev. 12:1, 17:3, 9-12; 1 Sam. 2:10; Deut. 33:17; 1 Ki. 22:11.

17:4. And the woman was arrayed in purple.—Symbolizing the apostate church's claim to royalty. "I sit a queen and am no widow."—Rev. 18:7.

And scarlet color.—Symbolizing her claims to share in Christ's work of sacrifice, in the doctrine of the mass.

And decked with gold.—Symbolizing her claim that she includes in her membership all the true Church of God, those who shall ultimately attain the Divine nature.

And precious stones.—Symbolizing her claim that she is the sole custodian of the Lord's precious jewels of truth and character.—1 Cor. 3:12; Mal. 3:17.

And pearls.—Symbolizing her claim that she has sole power over all that the Lord bought by His death.—Matt. 18:45, 46.

Having a golden cup in her hand.—Symbolizing her claim that she is the repository of all Truth.—Jer. 51:7.

Full of abominations and [filthiness]—FILTHINESSES OF [her] THE FORNICATION OF HER AND OF THE EARTH.—"Babylon hath been a golden cup in the Lord's hand, that made all the earth drunken; the nations have drunken of her wine; therefore the nations are mad, intoxicated with her errors."—Jer. 51:7-9; Rev. 18:6.

17:5. And upon her forehead was a name written.—In plain sight of all the spiritually-minded. (And how strange it is that everybody does not see it!)

Mystery.—We have already called attention to the fact that the Church of Christ is called in the Scriptures the "Mystery of God." We have also drawn attention to the fact that the Scriptures refer to Babylon as a counterfeit system (mother and daughters—some more and some less corrupt, some better and some poorer counterfeits), and there designated the "Mystery of Iniquity."—2 Thes. 2:7.

Babylon the Great, the mother of harlots and abominations of the earth.—Since Papacy, the mother, is not a single individual, but a great religious system, in keeping with the symbol we should expect to see other religious systems answering to the illustration of daughters of similar character. To this description the various Protestant organizations fully correspond.—Ezek. 16:44; Hos. 2:2-5; Isa. 1:21; Rev. 18:8; 19:2.

The claims of apostolic succession and clerical authority are almost as presumptuously set forth by some of the Protestant clergy as by the Papal priesthood. And the right of individual private judgment—the very fundamental principle of the protest against Papacy, which led to the Great Reformation—is now almost as strenuously opposed by Protestants as by Papists. Protestants seem to have forgotten—for they truly ignore—the very grounds of the original protest, and, as systems, they are fast drifting back toward the open arms of the "Holy (?) Mother Church." "Let us hold out to you our hand affectionately [says Pope Leo to Protestants in his famous Encyclical addressed "To the Princes and Peoples of the Earth"], and invite you to the unity which never failed the Catholic Church, and which never can fail. Long has our common mother called you to her breast." The doctrine of "the Divine right of kings," taught or supported by almost every sect, is the foundation of the old civil system, and has long given authority, dignity and stability to the kingdoms of Europe; and the doctrine of the Divine ap-

pointment and authority of the clergy has hindered God's children from progressing in Divine things and bound them by the chains of superstition and ignorance to the veneration and adoration of fallible fellow-beings, and to their doctrines, traditions and interpretations of God's Word. It is this entire order of things that is to fall and pass away in the battle of this great day—the order of things which for centuries has held the people docile under the ruling powers, civil, social and religious. All this has been by God's permission (not by his appointment and approval, as they claim). But though an evil in itself, it has served a good, temporary purpose in preventing anarchy, which is immeasurably worse, because men were not prepared to do better for themselves, and because the time for Christ's Millennial Kingdom had not yet come. Hence God permitted the various delusions to gain credence in order to hold men in check until "The Time of the End"—the end of "The Times of the Gentiles" (which expired in autumn of A. D. 1914, as shown in Pastor Russell's "Studies in the Scriptures," Vol. II, written twenty-five years before the outbreak of the war).

17:6. And I saw the woman drunken with the blood of the saints.—"But the blood of Protestants is not called the blood of saints, no more than the blood of thieves, man-killers, and other malefactors, for the shedding of which, by the order of justice, no commonwealth shall answer," so says the Rhemish (Catholic) translation, footnote. "She wore out the saints of the most high God," and "was drunken with the blood of the saints."—Rev. 18:24; 18:6.

And with the blood of the martyrs of Jesus.—This Scripture was fulfilled in the Dark Ages, but we are still in the Dark Ages, and shall be until this system is destroyed. It takes more than a mere profession of faith to make a Christian. Jezebel today has daughters—systems termed Protestant—which, nevertheless, copy largely the mother's spirit. It is through the influence of the daughters that the antitypical Elijah may expect future persecutions, instigated by the mother, accomplished through the daughters, as typically represented in the case of John the Baptist, beheaded by Herod at the instance of Salome, but at the instigation of Herodias—Jezebel—symbol of Papacy.

ECCLASIATICISM'S POLLUTION.

The Prophet Ezekiel, as God's instrument, long centuries ago wrote the history of ecclesiasticism in prophetic language. There the Lord pointed out how the Catholic and Protestant systems would become the antitypical Babylon and Jezebel. We give here a few extracts from the words of the Prophet Ezekiel and comments thereon taken from Pastor Russell's last message to the Church and to the world. We strongly urge that every Christian person, every order-loving man and woman, carefully read these prophetic statements and comments, as fully set forth in Volumes IV and VII of his STUDIES IN THE SCRIPTURES, elsewhere announced.

Ezek. 23:13-17. Then I saw that she was defiled, that they took both one way. And that she increased her whoredoms.—God saw that both churches, Romish and Protestant, were of like tendency to church-state union, especially Protestantism; for she never saw or heard of a great worldly man, even down to the local leader of the smallest rural community, that she did not desire his influence and help—particularly his money—and would systematically invite such to connect themselves with the church, quite regardless of whether or not they remained worldly.

23:18. So she discovered her whoredoms, and discovered her nakedness; then My mind was alienated from her.—The newspaper writers, Socialists, anarchists and muck-rakers have exposed the worldliness of the modern churches.

23:19, 21. Yet she multiplied her whoredoms, in calling to remembrance the days of her youth.—Prot-

estant ecclesiasticism multiplied her worldly alliances; and the prominent and wealthy, "of the earth earthy," filled the churches with tares, worldlings, desirous of profiting by association with prominent people.

23:22. Thus saith the Lord God: Behold, I will raise up thy lovers against thee, from whom thy mind is alienated, and I will bring them against thee on every side.—Therefore, O Protestantism, thus saith the Lord Jehovah: I will raise up in warfare and revolution the worldly people in thee, of whom thou art already sick, and bring them against thee on every side.

23:33. They shall be filled with drunkenness and sorrow and with the cup of astonishment and desolation.—Protestantism shall be intoxicated with the war spirit (Jer. 18:13), and later stupefied with astonishment at the ruinous results of her own course, ending in the same cup of trouble, utter ruin, as confronts her mother-church, Catholicism.

24:8. That it might cause fury to come up to take vengeance: I have set her blood upon the top of a rock, that it should not be covered.—The fury of a revolted soldiery and populace will rise up against the heads of the governments who also are heads of the churches, and will take vengeance upon ecclesiasticism's sins.

CLERGY RESPONSIBLE.

The clergy, as a class, have existed since the third century. Amongst them have been many good, honest, noble Christian men. But by far the greater majority have been unfaithful, disloyal, unrighteous men. Alas, the unfaithful class prevails at this time, and the great climax has come! God foretold this centuries ago. In chapters 33 and 34 the Prophet Ezekiel scathingly arraigns this class, and points out how they are responsible in a greater degree than any other class of men on earth for the present war and the great trouble that shall follow.

34:3. Ye eat the fat, and ye clothe you with the wool, ye kill them that are fed: but ye feed not the flock.—Ye live on the choicest offerings of the people; ye "disce" the sheep of their golden fleece: them that are fed to fatness with the Word of God ye kill spiritually if ye can. Ye have literally killed over fifty millions in bloody persecutions. Ye have preached millions into a dreadful death in the trenches. Ye do everything to the sheep but feed them. Did I not command you thrice, "Feed My sheep?"

34:4. The diseased have ye not strengthened, neither have ye healed that which was sick, neither have ye bound up that which was broken . . . but with force and with cruelty have ye ruled them.—They weakened by spiritual disease—by the pestilence of false doctrines—ye have not strengthened with the pure Word of God. Rather ye have thrown them poisonous, death-dealing doctrines from the "table of devils." (1 Cor. 10:21.) Ye have not bound up with the strong promises of God the broken in spirit. Rather than feed them, serve and shepherd them, ye have ruled them, lorded over God's heritage.

34:5. And they were scattered, because there is no shepherd: and they became meat to all the beasts of the field, when they were scattered.—They were not kept together, cared for and cherished in the bonds of Christian love. There were not among you the true under-shepherds having My spirit of Divine Love. And when they were scattered, they, the inoffensive, unresisting ones, became the prey of every evil government and of every evil employer and corporation. Ye made them cannon-fodder by the thousands for the blood-guilty kaisers, cairs, kings and generals of your evil order of things.

Occasionally some ecclesiastical paper, alarmed at the fearful conditions, calls attention thereto. For instance, the Rev. Dr. W. T. Ellis.

(Continued on Page 4.)

FREE LITERATURE!

Send postal-card request to the editor for free copies of this paper. Some of the interesting subjects you may have for the asking are:

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- Clergy Ordination Proved Fraudulent.

*Words not in Sinaitic MS. are enclosed in brackets.
†Words found in Oldest Manuscripts but not appearing in Common Version are printed here in Roman Caps.

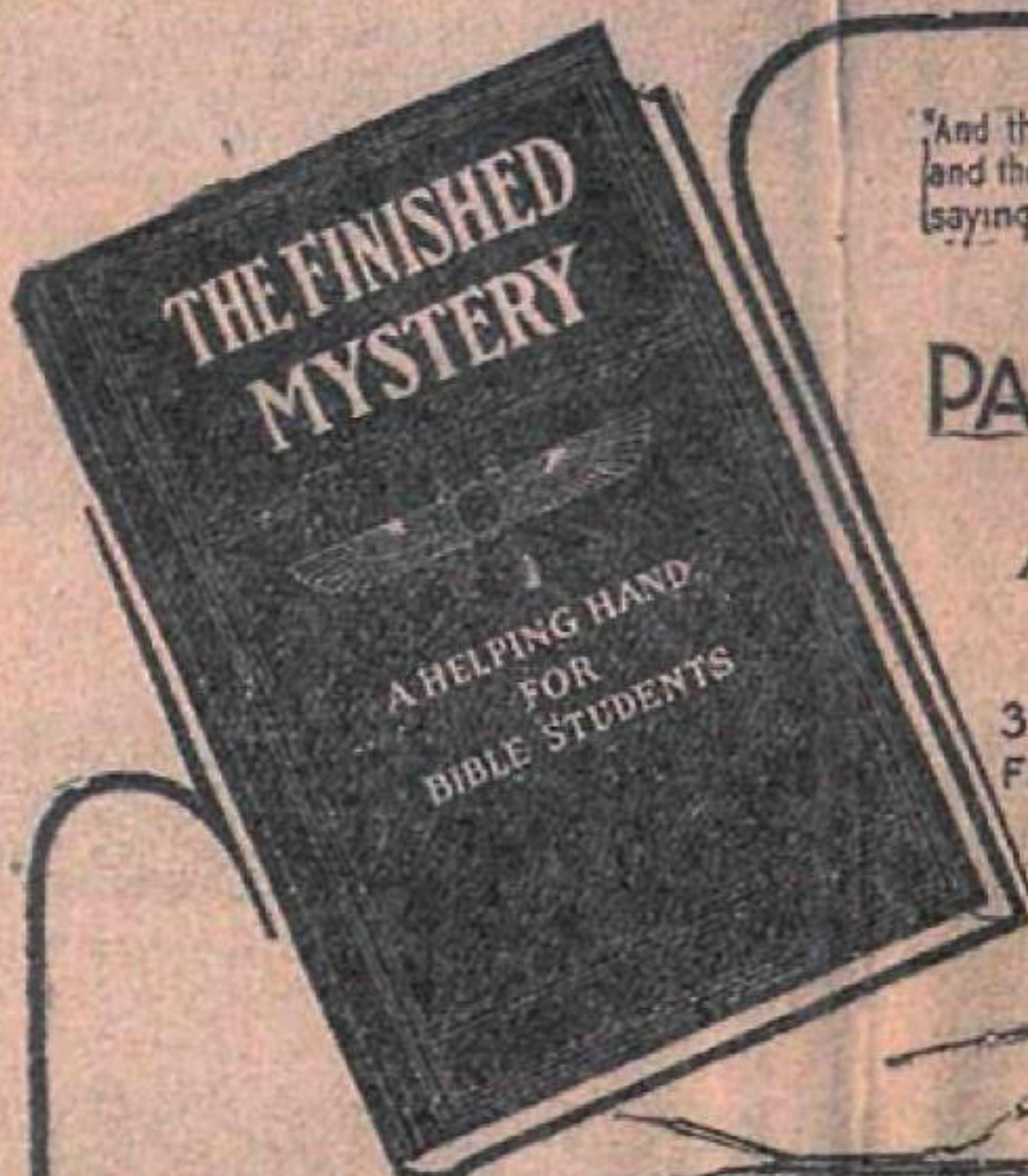


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International Bible Students Association,
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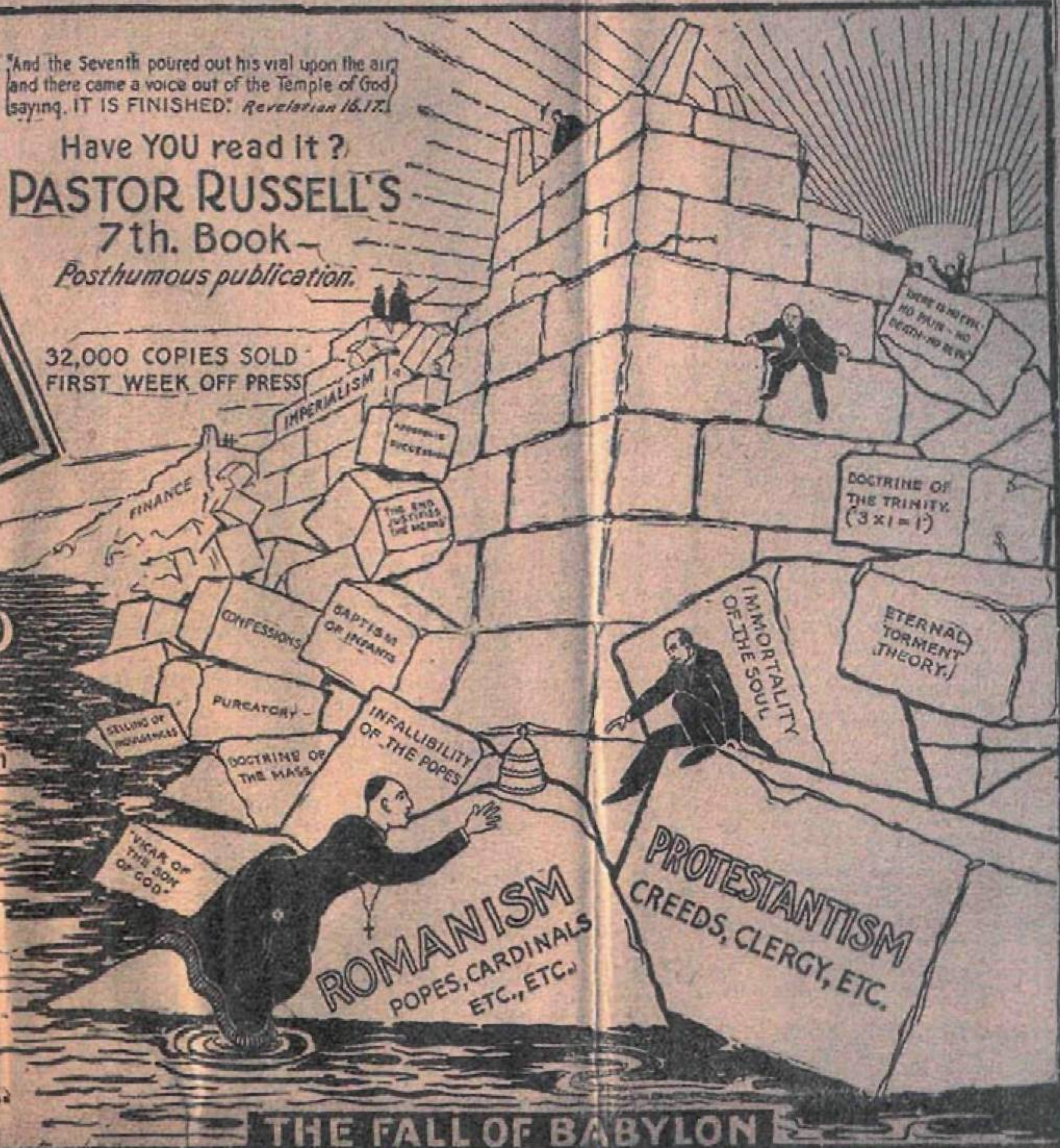
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THE FALL OF BABYLON

(Continued from Page 3, Column 4.)

writer of Sunday School lessons, in commenting on the lesson for September 2nd, 1917, scathingly rebukes the clergy system.

Further the Prophet Ezekiel says:

33:6. But if the watchman see the sword come, and blow not the trumpet, and the people be not warned; if the sword come and take any person from among them, he is taken away in his iniquity, but his blood I will require at the watchman's hand. —The clergy are the watchmen. They thus designate themselves. The clergy have an awful responsibility. Faithful watching on their part, with their great influence among the people, would have saved tens of millions from physical death, and a host from the religious death that will overtake so many. The outraged people will turn upon the clergy, as during the French Revolution, and in a frightful carnival will exact full toll for the lives lost in war. Responsibility for the Time of Trouble lies squarely at the door of ecclesiasticism; for had the clergy taken a united stand upon the Word of God against industrial, social, political, moral and religious evils, they could have reformed Christendom and prevented the world war and the ensuing revolution and anarchy. Our Lord said prophetically, "Upon this generation shall come all the blood," etc. By long teaching the false doctrine of the Divine right of kings and the Divine right of the clergy, the latter have become more reprehensible and responsible for the war than any other class on earth.

The comment upon Ezekiel 33:11-19 reads, "God has no pleasure in the destruction of Christendom. If it had turned from its spiritual idolatry and harlotry, it would have been saved from its impending doom. Its destruction is traceable directly to a small group of willful men, leaders and guides of the masses, namely, the pope, the cardinals, bishops, priests, ministers, revivalists and other religious leaders who have mis-taught rulers and people; and by their combination of worldly and religious teachings they have brought the world into a condition where the social elements are working their

mutual destruction. God pity the clergy for what is coming upon them; for the people will surely recognize the part they have signally failed to play in not, by concerted preaching of true godliness, checking the world's mad rush to anarchy and annihilation."

HOW BABYLON WILL FALL.

The Revelator points out how Babylon (Ecclesiasticism) has become corrupt and how she will fall.

Revelation 18:1, 2. And after these things I saw an angel coming down from Heaven having great power, and the earth was lightened with His glory, and He cried with a mighty voice, saying, Fallen is Babylon the Great. —The expression, "Babylon is fallen" indicates that at some time a sudden and utter rejection is to come upon Babylon, when all favor will forever cease and when judgments will follow.

And is become the habitation of devils. —The New York World publishes an interview with Bishop Fellows, who says, "In recent years great strides have been made in the explanation of psychic phenomena, and in the years to come the science of communication with the dead will be made a part of the curriculum of great educational institutions." We believe that through this channel the fallen angels ("wicked spirits," Eph. 6:12) are seeking to break down the human will and will shortly succeed.

And the hold of every foul spirit. —Rev. William Sunday has exceptional opportunity for knowing about Babylon, and he scores the ministers because they have no faith. He says, "Theological seminaries are turning out infidels," and refers to the large amount of saloon property that belongs to church members. He would have us believe that the moral standard of thousands high in the churches is so low as to almost stagger reason. If what Mr. Sunday says about the denominations is true, they are not fit places for good respectable people of the world, to say nothing of true Christians.

And the cage of every unclean and

nocturnal bird. —Babylon has contained both the best and the worst, but the worst have predominated.

18:3. For all nations have drunk of the wine of the wrath of her fornication. —The wine of false doctrine is that of the Divine right of kings, Divine right of the clergy and eternal torment, etc., etc. The one now being manufactured out of the theological seminaries is the wine of Evolution and Higher Criticism, which does not satisfy the thirsty, but increases the confusion.

18:4. And I heard another voice from Heaven, saying, Come out of her, My people, that ye be not partakers of her sins and that ye receive not of her plagues. —If you fail to obey the Lord through fear of earthly loss it will prove that these things are more precious to you than His favor is.

18:8. Therefore shall her plagues come in one day, death and mourning and famine and she shall be utterly burned with fire. —Completely destroyed in revolution and anarchy.

18:9, 10. And the kings of earth who have committed fornication with her shall wail and lament for her, when they shall see the smoke of her burning, standing afar off for fear of her torment, saying, Alas, alas, that great city Babylon, that mighty city. —Alas, that great religious system which was always eager to affiliate with us and give a religious coloring to our unholy wars, resulting in the wholesale slaughter of our strong men, the loss of our wealth and the breaking of millions of human hearts!

18:21. And a mighty angel took up a stone like a great millstone and cast it into the sea, saying, Thus with violence shall that great city Babylon be thrown down and shall be found no more at all. —For a time ecclesiasticism has been lifted by the people to great heights. Experiencing a sudden conviction of their error in so doing, and of the truly devilish character of the system, the masses will turn upon her and she shall be cast into the sea—that is, overwhelmed in a flood of anarchy. The masses of the people, no longer ignorantly stupefied as during the Dark Ages, but awakening to the true situation, will execute upon Babylon the Great the judgment of the Lord. She shall be cast like a great millstone into the sea, never to rise again. The sea

represents the masses of the people and especially the restless discontented class. And thus shall great Babylon perish from the earth and her name shall be forgotten forever!!

UNIVERSAL PEACE WITH REJOIC-ING.

What joy will pervade the earth when Babylon is completely annihilated! It will be followed by the glorious Kingdom of Messiah. Long have honest, order-loving Christian people prayed for the coming of that Kingdom. It will be the desire of all nations. Then universal peace will prevail and the people will learn war no more forever. (Micah 4:1-4; Isaiah 2:2-4.) No more will the earth drink the blood of men slain in war. Widows' tears will be dried and the cry of the orphan shall cease. They will have restored to them their loved ones who have been taken away by cruel war-gods, pestilence, famine and death. In beautiful, poetic language the Revelator describes that coming time of blessing, the beginning of which is near at hand, saying, "And I saw the Holy City, the New Jerusalem [Messiah's Kingdom] coming down out of Heaven from God, prepared as a bride adorned for her husband, and a great voice was saying out of the Throne, Behold the Tabernacle of God is with men, and He dwelleth with them, and they shall be His people and God Himself shall be with them; and He shall wipe away all tears from their eyes and there shall be no more death, neither sorrow nor crying shall be." What a glorious sunburst of blessing is in these words! What a grand fulfillment will there be of the Apostle's declaration respecting the "times of restitution of all things which God hath spoken by the mouth of all the holy Prophets since the world began"! The reign of Messiah will result in the elimination of every wicked thing from the earth, and the full restoration of all obedient beings to complete human perfection. Then every man will love his neighbor as himself. Mankind will then enjoy a perfect government, which will be one grand Universal Republic whose stability and blessed influence will be assured by the perfection of its every citizen. Let every honest heart rejoice that the old order is passing away and the new is coming!

"The Kingdom of Heaven is at hand" - Matthew 3:2

Vol. 1 NEW YORK CITY, MARCH 15, 1918

No. 1

RELIGIOUS INTOLERANCE

PASTOR RUSSELL'S FOLLOWERS PERSECUTED
BECAUSE THEY TELL THE PEOPLE THE TRUTH

Treatment of Bible Students Smacks of the "Dark Ages"

**"The Servant is not greater than his Lord.
If they have persecuted me, they will
also persecute you."—John 15:20.**

IN 1959, young Charles T. Russell, before becoming a diligent student of divine prophecy, discovered that the Bible contains an outline of Jehovah's wonderful plan for the future of the human race. He was immediately blessed and immediately blessed mankind. So enthused was he with the message of hope that he at once devoted all of his time and energy to the study of the Bible. At the very beginning of his ministry, he spent \$40,000 out of his own pocket to distribute freely in the city of New York a 100-page address book. This little booklet entitled, "Food for Thinking Christians." A few clergymen saw the booklet and with gladness joined with him in the distribution of the booklet. The majority of clergymen, instead of explaining these Scriptural truths to the people, however, resorted to a hostile and systematic persecution of this man. He was persecuted and they persisted in their determination to persecute him until his death in 1942.

Pastor Russell clearly proved from the Scriptures that the doctrine of eternal torment of human souls is the blasphemous doctrine of the great Adversary. He also clearly proved to the people: that the doctrine of the Divine right of the clergy to teach the Bible is wholly unscriptural, and that both have been the cause of untold suffering of the people of earth.

Pastor Russell wrote and published six volumes of *Scriptures in the Scriptures*, and shortly after his death the Seventh volume of the series was issued. In this volume he explained the prophecies of Ezekiel and Revelation and proving how the unrighteous ecclesiastical systems have been the cause of untold suffering to the people. This volume also points out that Messiah's Kingdom is near at hand and that the Kingdom of the living will flow on to mankind.

Upon the Bible Students' headquarters, took possession of their various publications, including Bibles and hymn books. They also took possession of the entrance into the private office of one of the elders of the class, without even having a search warrant. The men, women and children of the class and women were arrested and thrown into jail. In Arkansas a poor woman was arrested and taken to the State Prison, was arrested because she was selling "The Finished Mystery," the seventh of Pastor Russell's series of books. The woman was told that it was impossible for her to give, and she was compelled to stay for some time in a jail, and finally to leave again.

In Illinois, the "Christianity" newspaper advertised the publications of Pastor Russell as "German propaganda."

It was to stir up the minds of the people and to stir up the Students, because of the enmity that

More than twenty years ago Pastor Russell pointed out from the Bible that God had granted to the Gentiles a lease of power which would legally end in 1914, and that the nations would become kings and God's kingdom would come; that a great international war would begin at that time and would be followed by greater trouble, and that

PERSECUTION IN GERMANY

To show well-organized effort on behalf of the clergy, to organize the Bible Students, we see their activities have not been confined to our country, but to many countries. For a number of years the International Bible Students Association has maintained an office in Germany and in many foreign countries. A paper in Copenhagen, Denmark, recently published the following:

"A Warning Against the Millennium Sect

"The Consistory of Kiel (Holstein, Germany) is calling the attention of the clergy to the fact that the activities carried on by the Millennium sect, which calls itself Watch Tower Bible and Tract Society, and the German Bible Students Association, The Imperial War Department has recently requested us to keep a watchful eye on the clergy."

In Jesus' day, the clergy of the Jewish order of that time, being unable to meet his forceful words, stirred up the people against him and had him arrested, charging him with treason against the Roman government and with blasphemy against God.

Early in the month of February, 1918, the clergymen of Canada began their systematic denunciation of the International Brotherhood of Women and its publications. For instance, the *Impress* (Canada) papers denounced at certain clergymen had denounced the publication of the *Impress* from their pulpits and stated that the opinion of the Attorney General had been called to the matter. Later, the *Impress* called attention to the fact that the Association's publications and the

Some have the Papacy looked upon as just a pair of eyes for the control of American institutions. The same ambition that actuates the Kaiser of Germany lurks in the mind of the Pope. Since the Pope has been the only power in the world to whom the desire of the Papal hand to exercise temporal power. We now sound a warning to the liberty-loving people of the world against the encroachment of the Papal system. We aided and supported by a class of clergymen from other systems who have greed for power and who are not enlightened by the true teachings of the Scriptures. Successors of that Ecclesiastical Trust will mark the people of religious liberty. There are thousands in the world who do not believe that the Pope recently betrayed Italy into the hands of the Kaiser; but when his wrongful course was discovered, they were not able to do anything. The Liberty Digest for Jan. 15, 1918.

"A scapegoat has been found for the recent reverses in Italy in the person of the pope. The editors of one of the leading English papers do not hesitate to accuse him of having turned from a passive Austrian ally to an active enemy of the Austrians, as against the Italian cause. In a long editorial in the *London Times* the pope is attacked and all his works are roundly denounced. The *London Times* writes: 'When it is necessary that the Allies should consider with some care what is their position in relation to the Vatican, the Vatican has been the Italian reverse was largely due to the influence of treacherous representations of the Vatican. It is well known the Italian armies is known; that the Vatican was implicated in that propaganda is also known; that the Vatican has been the cause of a war that it effects cannot; yet we are assured that the Vatican is innocent. It is the Vatican, in so far as political action is concerned, has maintained an attitude which, as it was immoral, was also utterly and utterly incomprehensible, inasmuch as violations of law and offenses against humanity were tacitly condoned.'

It is no secret that the Catholic and Protestant clergy are joining hands in the persecution against the International Bible Students, both in America and other countries; not because they believe that the Bible Students are disloyal to any government, but because they know that the true teachings of the Bible expose them and show how they have kept the people in darkness for so many centuries. Now the clergy, posing as patriots and supporters of the government, are really taking advantage of the occasion to further their selfish purposes. We take this opportunity to warn the American people

PERSECUTION IN GERMANY

To show a well-organized effort on the part of the clergy to persecute these Bible Students, we see their activities have not been confined to our country alone, but to many countries. For a number of years the International Bible Students Association has maintained an office in Germany and in many other foreign countries. A paper in Copenhagen, Denmark, recently published the following:

A Warning Against the Millennium Sect

The Consistory of Kiez (Hollstein, Germany) is calling the attention of the (Lutheran) priests to the activities carried on by the Millennial sect, which calls itself the "Millennial Tower Bible and Tract Society." The Consistory of the Association," The Imperial War Department has recently requested us to keep a watchful eye on the activities of this sect, which consist in selling the writings of its founder, the recently deceased "Pastor Russell, of Brooklyn, North America, in untiring propaganda work, and especially with American money. The Consistory does, therefore, call the priests' attention to this sect and requests that they keep a watchful eye against it and report to the Consistory the manifestations of its dangerous activities."

UBST FOR TEMPORAL POWER

It is no secret that the clergy for years past have diligently sought to acquire greater political power amongst nations; and particularly in this country in the United States. They now take advantage of the condition of affairs to further their selfish aims.

We are not against the war. We recognise and have long taught that the Bible, three thousand years ago, foretold the present great war, and that God's hand would be in the matter. When President Wilson asked the ministers to pray for peace, Pastor Russell, in an address in the New York City Tabernacle, said: "While I have the greatest respect for our honorable President, I must decline to join in a prayer for peace, because the Word of God shows that this war must come at this time; and for me to pray for peace now would be to ask Jehovah to change the Divine plan."

For more than thirty years, Pastor Russell and other members of the Association have been telling the people that the war would begin in 1914. The clergy throughout the land ridiculed and scoffed at the idea. Had the advice of Pastor Russell and the International Bible Students Association been heeded, the people would not have been so surprised when the war came, and would have been better prepared and fortified for it.

We recognize that this war, foretold by Jehovah, will be overruled by him and result in much good to mankind. The Bible says, "There shall be a time of trouble such as was not since there was a nation, even to that same time." (Daniel 12:1; Matthew 24:11) If it is disloyal to call attention to the meaning of this great trouble upon the earth, then it is disloyal to repeat the Lord's prayer, "thy Kingdom come; thy will be done on earth as it is done in

Furthermore, the Lord said: "Wait ye upon me, saith the Lord, until the day that I rise up to the prey; for my determination is to gather the nations that I may assemble the kingdoms, to pour upon them mine indignation, even all my fierce anger: for all the earth shall be devoured with the fire of my jealousy [not literal fire]. For then will I turn to the people a pure message, that they may all call upon the

A black and white illustration of a man in a hat and coat, pointing his right hand towards a large, unrolled scroll. The scroll is titled "THE PROPHECY OF EZEKIEL" in bold, capital letters. The scroll itself contains several lines of text, which are illegible in this reproduction. The man is depicted in a dynamic, walking pose, looking towards the scroll.

THE

name of the Lord, to serve him with
me consent." (Zephaniah 3:9, 10)
Thus Jehovah points out that after the
trouble is over, a great blessing shall

New we are attempting to teach the people to follow after this war—not teaching according to our own wisdom, but according to what the great Teacher, Christ Jesus, made men. Again the clergy are trying to keep both the governments and the people in ignorance. The clergy are selfish and lead the people into vanity and patriotism; whereas, as a matter of fact, they are really a menace to both governments and people. The American people can be trusted with the knowledge which we are giving them. Knowledge of righteousness will do good and not harm. Let the people understand what the future holds and their fears will be calmed. The International Bible Students Association is earnestly endeavoring to help the peo-

THE DRAFT

We recognize that the United States Government, being a political and economic institution, has the power and authority, under its fundamental law, to declare war and to draft its citizens into military service. We have no dis-

position interfere with the draft, the war is in my manner. The fact that some of our members have sought to take advantage of the protection of the law, has been used as another means of escape from the responsibility of the Selective Draft Act in May, 1917, and in that act provided that no person should be compelled to engage in combatant service who is a member of a well-recognized religious organization, the principles of which preclude its members from bearing arms. We are now members of the Church and we recognized that there are conscientious objectors who cannot conscientiously engage in combatant service. The draft for this is that some have fully consecrated themselves to the Lord and they conscientiously believe if they are called to engage in combatant service in his Kingdom of righteousness, and that if they engage in the taking of human life this will destroy their eternal life. We are not going to allow that we can give no combatant service.

WHAT BIBLE STUDENTS BELIEVE

The International Bible Students believe that Jesus Christ is the great Redeemer of mankind; that he promised before his ascension into heaven that he would return again and receive his kingdom; that he will reign over the earth for a thousand years thereafter, during which time he would give every man a fair trial for life and all the obedient ones would be restored to eternal life, the wicked being eternally destroyed, that ultimately the earth will be filled with a race of happy, obedient people, and that this period means one thousand years; that the millennial reign of Christ means the thousand-year reign of Christ mentioned in the Scriptures. (Revelation 20:1-6.) The Bible says, "The Lord's reign and great blessing is at hand. The bringing of this hope to the people at this time has greatly angered the rulers of this world, and they have denounced it, because, if true, the power

"WIRELESS SEIZED"

About the same time that arrests were being made in other places, the public press throughout the country announced that a "raid" had been made on the premises of a private and powerful wireless receiving station was found in the cellar and a sending station on the roof, intimating that this was a German work. The facts are these: Some three years ago, Mr. Edward Kuser of Potomac, Pa. presented to the U. S. Government a radio transmitting machine and it was erected on the roof of the Bethel Home. There never has been a sending apparatus on the premises and the receiver has been used, except to experiment with by some of the younger members who were trying to learn the use of the wireless and not even this has been done during the past two years. More than a year ago, the wireless was dismantled and the materials were used for other purposes and the receiving instrument safely stored away in the art room. It was voluntarily given up by the members of the club because we have no use for it. There is not a person about the Bethel Home, nor has there been for two years, who has any knowledge about the use of a wireless instrument.

We here insert the affidavit of the person who manufactured and erected the wireless:

COUNTY OF NEW YORK) : ss
STATE OF NEW YORK)
I, Edward Kuser, being duly
sworn, do depose and say, as fol-
lows:

In 1915, about the first of the year, I made a present to Pastor Russell of the wireless receiving set which was found on the premises of the Watch Tower Bible and Tract Society at Bethel Home, 122 Columbia Heights, Brooklyn, New York, as my own personal gift. Being a manufacturer of wireless equipment I can positively state



THE CLERGY WOULD CENSOR THE BIBLE

name of the Lord, to serve him with one consent." (Zephaniah 3:9, 10) Thus Jehovah points out that after the trouble is over, a great blessing shall

Now we are attempting to teach the people to follow after this war—not teaching according to our own wisdom, but according to what the great teachers of the world have said. Again, the clergy are trying to keep both the governments and the people in ignorance. The clergy cry long and loud about the loss of patriotism; whereas, as a matter of fact, they are really a menace to both governments and people. The clergy are trying to keep the people from all the knowledge possible to be given them. Knowledge of righteousness will do good and not harm. Let the people know the truth about the war and their fears will be calmed. The International Bible Students Association is earnestly endeavoring to help the people.

THE DRAFT

We recognize that the United States Government, being a political and economic institution, has the power and authority, under its fundamental law, to declare war and to draft its citizens into military service. We have no dis-

[illegible]

that there was no transmitter connected with this instrument. The instrument was purely a receiver. Its messages could be received, but could not be sent. This was more or less between Pastor Russell and myself. Several of the students there also knew of its presence. I was certain that when I presented the instrument to Pastor Russell that there was no one residing at the Bethel Home who could operate this intelligence. I was at the Bethel Home in August, 1917, and I saw at that time that the crystal system was dismantled, the pole balanced at the top of the roof, but I did not see the instrument and was informed that the apparatus had been sent out of commission for over a year.

The sealing of wireless apparatus consists of taking down the aerial system and placing the apparatus where it would not be possible to use it. As near as I remember, the said receiving instrument has not been in use as a receiver for the last twenty months.

I have just now made a personal inspection of the instrument, which was taken from the Sethel House on March 6th 1912, and find that

KINGDOM NEWS

L. B. S. A. Publisher.

19, 19, 17 Micks St. Brooklyn, N. Y.
Monthly—12c, a year, single copies, 1c.
An Independent, Unsectarian Religious Newspaper, Specially Devoted to the Revealing of the Kingdom of Christ for the Glory of God and Good of Mankind.

Ministers of the L. B. S. A. render their services at funeral free of charge. They also invite correspondence from those desiring Christian counsel.

the detector bulb upon which the success of the apparatus entirely depends is the original one I furnished in 1913, and is completely burned out, hence rendering the instrument of no practical use whatever. Twenty months ago I was asked to renew this said bulb by Mr. Crosby, but it was not renewed and has been out of commission ever since. In order to renew this bulb it would have been necessary to send the old one to the factory and procure a new one in its stead, this being the requirement of the manufacturer, De Forest Company. The De Forest Company have the patent on this bulb and they would not have renewed it without the return of the old one, and this was the original one I furnished. I found with the instrument a telegraph key, which was not a part of the said receiving set, being used to practice the code, as it is necessary to know the telegraphic code before any one could intelligently receive or send a message.

(Signed) EDW. A. KUSER.
Sworn to before me this
14th day of March, 1915.

(Signed) Thomas F. Keenan, Jr.
Notary Public—Bronx County No. 31; Certificate Filed N. Y. Co. No. 135; Term Expires March 21, 1915.

"THE FINISHED MYSTERY"

At the first intimation that there was any objection to the language used in "The Finished Mystery," a special representative of the Association was sent to Washington, D. C., and took the matter up with the Censor Committee of the Intelligence Section of the War Department. That Committee, after looking over the book, would not declare that any part of it is seditious, but advised that pages 217 to 219 be removed. Nearly all of the matter on these pages is quotations from two ministers of New York City, written prior to the United States' entry into the war, and who there discussed the advisability of war. The Association immediately proceeded to extract all of its Colporteurs throughout the country to remove the pages above mentioned, before offering the book for sale. The manufacturers were notified to hold up the work until new plates could be supplied for these pages. And thus every effort has been made to comply with the advice of the public censor. The purpose of the Association is not in any way to interfere with the war and its progress, but its mission and purpose is to teach the people the plain meaning of the Bible. The Prophets of the Lord describe Mystic Babylon and show that the ecclesiastical systems constitute Babylon. The book that has recently been so much commented upon in the press, "The Finished Mystery," is a commentary upon these prophecies, particularly Ezekiel and Revelation. These two great prophecies expose the clergy and show that their doctrines are misleading, without hope, and confusing. Babylon means confusion. The Bible proof shows that the clergy have been preying upon the people and collecting money from them upon the pretense of teaching them the Scriptures; whereas they have kept them in ignorance of the Bible. The clergy taught by the clergymen have held out no hope for any one except the few that go to heaven. They have taught that the mass of humanity would have to spend eternity in hell—a lake of burning fire and brimstone.

On the contrary, the Scriptures hold out a wonderful hope for mankind in obedience to their country's call thousands of young men of America are facing the enemy upon the battlefield. Doubtless many of these do not claim to be Christians; and if the teachings of the clergy are correct, then those boys would have no hope. The International Bible Students are trying to teach them and every one also that the Bible proves that only the consecrated Christian is now on trial for life, and that when Messiah's Kingdom is in operation all the living will learn the truth, and all the dead shall return from their tombs and have an opportunity to gain everlasting blessings. Soldiers who die upon the battlefield, those who die at home from disease and other causes; in fact, all shall hear the voice of the Son of Man and come forth from the tomb. (John 5:29). The Bible is full of comforting promises for mankind. The great Adversary, by his various machinations, has kept the people in ignorance of these great truths for centuries. Now in this hour of great stress upon the world, he is desperately striving to throttle those who are earnestly and faithfully trying to open the eyes of the people to this consoling message contained in the Bible. It is the Adversary's old trick of intolerance in the name of religion against the glorious hope that God has set before those who love righteousness. As a sample of the teachings of the Bible Students and of Pastor Russell's writings concerning this hope set before mankind, we quote from his first volume:

"Close your eyes for a moment to the scenes of misery and woe, degradation and sorrow that yet prevail on account of sin, and picture before your mental vision the glory of the perfect earth. Not a stain

of sin mars the harmony and peace of a perfect society; not a bitter thought, not an unkind look or word; love, welling up from every heart, meets a kindred response in every other heart, and benevolence marks every act. There sickness shall be no more; not an ache nor a pain, nor any evidence of decay—not even the fear of such things. Think of all the pictures of comparative health and beauty of human form and feature that you have ever seen, and know that perfect humanity will be of still surpassing loveliness. The inward purity and mental and moral perfection will stamp and glorify every radiant countenance. Such will earth's society be; and weeping bereaved ones will have their tears all wiped away, when thus they realize the resurrection work complete."

How different is this sweet message to that of endless torment taught by the clergy and which had its birth in the Dark Ages. Surely the people do not wish to return to the Dark Ages and have a few bigoted clergymen tell them that they should not read what the Bible says. We are reminded that in the early days of the Papacy it was made a crime for a man to have a Bible; and now the clergymen would take away the Bible explanation from the people. Our forefathers braved the storms of the Atlantic in open boats and came to wild America that they might find here a safe retreat and establish an asylum of religious liberty where they could worship God according to the dictates of their own conscience. These great principles were embodied in the fundamental law of the land. The Constitution guarantees the right of petition and redress, the right of freedom of speech in the interest of humankind. We call upon all order-loving, law-abiding people to protest against this unholy persecution of innocent men and women, who have but one desire, and that to proclaim the gospel of Jesus Christ and his glorious Kingdom—now at hand.

Religious intolerance has brought Russia to her present condition. An arrogant, religious intolerance has made German autocracy possible. While the peoples of the Allied nations are fighting for principles of justice and right, let all see to it that these principles are not denied to order-loving men and women who are attempting to help their fellow-men to a better understanding of God's purposes concerning their future welfare and blessing. Let the people assemble everywhere in calmness and sobriety and consider the great truths of the Bible, because "righteousness exalteth a nation," and nowhere can righteousness be so well learned as from the Word of God.

THE WORLD HAS ENDED

MILLIONS Now Living May NEVER DIE!

FREE LECTURE

By HON. J. F. RUTHERFORD Member New York City Bar

In order that the people of New York City may have an opportunity to consider his convincing and heart-cheering message, the INTERNATIONAL BIBLE STUDENTS have arranged for Mr. Rutherford to deliver his great lecture FREE to the public.



Thousands of America's sons are gone to the battlefield. Many may die there. Mr. Rutherford's lecture gives conclusive proof of future blessings for them, whether they die Christians or not. This message will bring joy and comfort to every heart.

BROOKLYN ACADEMY of MUSIC

LAFAYETTE AVE. & ST. FELIX STREET

3 P. M. - SUNDAY - MARCH 24

ALL SEATS FREE . . . NO COLLECTION

CENSORED

By the Postmaster General

Here is "A Good Soldier," by Jack London, which has aroused the militarists of this nation to the extent that Postmaster General Burleson has barred from the mails envelopes containing this article. The APPEAL TO REASON was threatened with a "fraud order" if it persisted in sending envelopes through the mails containing London's article. The Postmaster General did not even give the APPEAL a chance in the courts. He said: "Either stop circulating 'A Good Soldier' on envelopes or we will close up your doors by refusing to deliver a single piece of mail to you." So in "Free America" the APPEAL has been forced by a War Censor to take this means to circulate Jack London's criticism of the soldier profession:

* * * * *

A Good Soldier

BY JACK LONDON

Young man, the lowest aim in your life is to be a good soldier. The good soldier never tries to distinguish right from wrong. He never thinks; never reasons; he only obeys. If he is ordered to fire on his fellow citizens, on his friends, on his neighbors, on his relatives, he obeys without hesitation. If he is ordered to

fire down a crowded street when the poor are clamoring for bread, he obeys, and sees the gray hairs of age stained with red and the life-tide gushing from the breasts of women, feeling neither remorse nor sympathy. If he is ordered off as one of a firing squad to execute a hero or benefactor, he fires without hesitation, though he knows the bullet will pierce the noblest heart that ever beat in human breast.

A good soldier is a blind, heartless, soulless, murderous machine. He is not a man. He is not even a brute, for brutes only kill in self-defense. All that is human in him, all that is divine in him, all that constitutes the man, has been sworn away when he took the enlistment oath. His mind, conscience, aye, his very soul, are in the keeping of his officer.

No man can fall lower than a soldier—it is a depth beneath which we cannot go.

[If you want to know more about Socialism or how to join the Socialist party, write to the Appeal to Reason, Girard, Kan. The Appeal to Reason is a weekly paper and costs 50 cents a year.]

the greater ease when we have this thought before our minds.

The Apostle gives a similar thought when he says that the tribulations which the Lord's people undergo are not worthy to be compared with the glory that shall be revealed in them. This should make us very moderate, very forbearing, under

circumstances which would make others very rude, very angry, very immoderate. We can be very gentle, not only because of our knowledge of the nearness of the kingdom, but also because of our knowledge of the weaknesses of others, which cause them to impinge upon our rights.

SOME INTERESTING ITEMS

PARIS BRETHREN MEET REGULARLY

Extracts from a Letter of Brother Joseph Lefevre, main Elder of the I. B. S. A. Class in Paris, France, to Brother Louis F. Ruel, of New York.—Translated.

Please, Brother Louis, openly tell our Beloved Pastor Russell, and through him all the dear brethren over there, of the cheerfulness and perfect peace which I derive daily from "My Morning Resolve" (especially the last part of it), in my long exile from my home in Denain (invaded territory), and from separation of my wife and other dear ones there. Also, the added blessing that I find, when at times my courage would fail me, in recalling the words:

"Faith can firmly trust Him,
Come what may,"

and then, softly repeating them, I regain greater comfort and joy! Yes; I desire of you the favor to thank the Lord for the precious help I have received from this "Resolve" counseled by the "faithful servant." I deeply appreciate the service, and must give vent to the feelings it suggests.

I do not write to the dear Pastor, because being unable to express myself properly in English, I think better to sacrifice my own satisfaction than to divert otherwise too much of his attention from the interests of the many. However, I know how much he loves also the brethren of Northern France—and these, too, know it. Therefore, daily, from every heart of our people, ascends to the heavenly throne a fervent prayer beseeching for Brother Russell, our Pastor, an ever-increasing measure of the spirit of grace, wisdom and understanding. Be sure and tell him that despite the keenly hard and long trial they are undergoing, all our French brethren and sisters, whose sentiments I am here voicing, are his "glory and joy" (1 Thessalonians 2:20), by their faithfulness, faith and perseverance.

The Lord has made his truth known here to some new hearts by my humble voice and despite my poor health. We have a class now of about forty-five, and every week new, thirsty souls come to the spring of the new life. A number have known the beauty and privilege of consecration, and they are making large strides in spiritual progress. Nearly all the members attend the weekly testimony meeting. Three evenings during the week there are meetings (one at the other end of Paris), for Berean Studies or to discuss the Epistle to the Romans, with an average attendance of twenty.

Until lately I have had to take personal charge of all the meetings, with the preparatory study that each entailed, which fortunately could be done owing to some leisure left by my working only eight hours daily at the office [an insurance company]. By now the Lord has given me a competent assistant in my dear Brother Theophile Leguime [formerly a Deacon at Denain], also physically weak, but strong in faith, who since the invasion was living with the friends at Auchel, Pas-de-Calais [a few miles from the battle front], and who has just been compelled to leave that place because the military authority became suspicious of his large correspondence with the brethren at the front and elsewhere in the interest of the truth and for their edification and comfort. The experience and ability of this brother will much avail, so that several things will be thus better cared for, under God's providence, answering my prayers that "He would send forth laborers into his harvest."—Matthew 9:38.

SHARP P. O. CENSORSHIP

An Exchange asks: How far can a government department go in censoring printed matter committed to the mails? Will the Postmaster-General bar the following extract from a speech made by Kaiser Wilhelm of Germany in 1891 to recruits?

"Recruits! before the altar and the servant of God, you have given me the oath of allegiance. . . . Only one enemy can exist for you—my enemy."

"With the present Socialist machinations, it may happen that I shall order you to shoot your brothers or even your parents—which God forbid—and then you are bound in duty implicitly to obey my orders!"

—If the Postmaster-General permits the above to go through the mails, why should be object to the little article by Jack London, reading in part:

"Young man, the lowest aim in your life is to be a good soldier. The good soldier never tries to distinguish right from wrong. He never thinks; never reasons; he only obeys. If he is ordered to fire on his fellow citizens, on his friends, on his neighbors, on his relatives, he obeys without hesitation. 'A good soldier is a blind, heartless, soulless, murderous machine. He is not a man. He is not even a brute, for brutes kill only in self-defense. No man can fall lower than a soldier—it is a depth beneath which he cannot go.'"

Postmaster-General Burleson does object to the above. When it appeared on post-cards circulated by a peace society, he issued an order barring such post-cards from the mails.

THE NEXT POSSIBLE STEP.

To say that a newspaper carrying this text should be barred from the mails would be the next logical step. The distinction by the department is that such matter on a post-card is "openly displayed." In a newspaper it is not.

The censorship is based on section 212 of the criminal code, which excludes from the mails all matter which carries openly any reflection on the character or conduct of any person. The department, however, has construed this to mean any class of persons.

Leaders of the various peace societies are indignant over what they call this usurpation of power on the part of the department.

EUREKA DRAMA WORK

DEAR ONE IN CHRIST:—

With the closing of the year 1915 we find that our activity in the EUREKA DRAMA work must close also.

We have been working continually nearly all summer, showing almost every night. We traveled by wagon, and camped out, making our expenses very light; but as the cold weather came we found that the rental of halls and board and lodging were more than we could handle, so we have decided to discontinue our efforts until spring, except in a few towns we can easily reach by rail.

We have the DRAMA on the loan plan, and would like to keep it, hoping to start again as soon as the weather permits. We completed four counties in the past year. We showed, on an average, to one hundred and fifty persons each evening, and much interest was aroused.

We did not specially encourage the signing of the cards, but merely mentioned it, and we think by so doing we received the names of those most interested. When we first started with the DRAMA we would pass pencils and encourage the people to sign, but we found that we could get those most interested by merely drawing their attention to the subject of the free booklet. All of us were blessed in the service and by the experience we passed through, some of which were not the most pleasant, but we believe they were for our good.

We have shown in many churches, and on two occasions we showed on Sunday evening after the preaching service. We also found some towns bitterly opposed, and the ministers would write articles for the local papers condemning Brother R. and the DRAMA. This only helped to increase interest, and two of these articles we were privileged to answer through the same columns. We did this in as kindly a way as possible.

Please let us know if it will be all right to keep the DRAMA here and use it during the winter, as we have opportunity. If the work does not close by spring, we hope to become active again in the service for the King of kings,

Your Brother in Him,

L. E. EDWARDS.

FRENCH LETTERS FROM TERRITORY INVADED BY GERMANS (From the French WATCH TOWER.)

I have been happy to receive word that you can again send us "LA TOUR DE GARDE" with the precious teachings of the faithful and wise servant. What a joy and comfort we find in having our eyes opened and being able to understand the divine plan! The Lord is permitting evils, mourning and sufferings for a little while still, but soon he will heal every wound, wipe away all tears and reign in righteousness. This is indeed "the vision of glory presented to our faith," in which glory we shall share if we are faithful to the end. And this is the time for us to realize in part Psalm 46, and wait patiently for the fulfillment of the rest.

J. B. and J. TILMANT.—Belgium.

Edward Adams, who was contracted by the Watch Tower Bible And Tract Society to print 10,000 copies of the October, 1917 "Bible Students Monthly," containing Jack London's "banned" anti-war tract testifies to the following:

Transcript p.405

Cross-Examination by Mr. Fuller:

Q. That is the issue in which you printed 10,000 in that form of some reprint which contains this Jack London letter?

A. I have never read these things.

Q. Read it now (handing witness paper).

A. I say I never have read it previous.

Q. Read it now. That is the exhibit that you identified the other day, Exhibit 14, as being an issue of the "Bible Student's Monthly" of which you published a reprint in October, 1917; is that right?

A. Yes, sir.

Q. The reprint that you published in 1917 was so far as you can recall, the same as this, with the exception of some matter in this—this advertisement on this page?

A. Yes, sir.

Q. This Exhibit 14 which is now shown you contains the Jack London letter, does it not?

A. Yes, sir.

405

Edward Adams

1213

Q. Turn over on the back of it. A. I have not printed one with this page 4 on.

Q. That particular "Bible Students' Monthly," you never printed at all? A. No, sir.

Q. The one that you printed is a different issue from this one entirely? A. It is, with the same heading, and page 1.

Q. I want to know if that particular paper was ever printed by you? A. Not this particular paper with the advertisement on the back.

Q. So there is no particular "Bible Students' Monthly" that has been shown you that you printed in October, 1917? A. Not this exact copy that we printed. 1214

Q. And the only "Bible Students' Monthly" that you published in 1917 called Volume VIII, No. 1, was an order that you got on October 7 or 17, 1917, for 10,000 copies? A. Yes, sir.

CROSS-EXAMINATION by Mr. Fuller:

Q. That is the issue in which you printed 10,000 in that form of some reprint which contains this Jack London letter? A. I have never read these things.

Q. Read it now (handing witness paper). A. I say I never have read it previous. 1215

Q. Read it now. That is the exhibit that you identified the other day, Exhibit 14, as being an issue of the "Bible Students' Monthly" of which you published a reprint in October, 1917; is that right? A. Yes, sir.

Q. The reprint that you published in 1917 was so far as you can recall, the same as this, with the exception of some matter in this—this advertisement on this page? A. Yes, sir.

Q. This Exhibit 14 which is now shown you contains the Jack London letter, does it not? A. Yes, sir.

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Edward Adams

EDWARD ADAMS, a witness for the Government was duly sworn and testified as follows:

Direct-examination by Mr. Oeland:

Q. What is your business? A. Printing and binding.

Q. Did you do any printing in the latter part of 1917 for the Watch Tower Bible & Tract Society? A. Yes, sir.

Q. Did you print what is known as the Bible Students' monthly? A. Yes, sir.

1001 Q. Just tell the jury how you printed that; I mean by that, did you have reprints of certain issues? A. The Watch Tower Bible & Tract Society furnished the plates of various issues of the "Bible Students' Monthly" and we have printed the "Bible Students' Monthly" tracts as their orders have come in.

Q. In other words, you had the plates and as you got orders from them— A. (Interposed): Yes, we would print and reprint them.

Q. Did you have a reprint of Volume 8, No. 4? A. Yes, sir.

Q. Of the "Bible Students' Monthly," at any time in 1917? A. Yes, sir.

1002 Q. What date? A. October 4, 1917.

Q. That was the reprint of Volume 8, No. 4? A. Yes, sir.

Q. How did you get an order for reprinting that? A. That is the way the orders have been submitted to us for printing. The written orders.

Q. Is this the way the order would come into you? A. Yes, sir.

Q. Did you receive that order on or before October 17th? A. Yes, sir.

Mr. Oeland: I offer that in evidence.

Mr. Sparks: Let us see it. (After examination): I object on the ground that it is in no

Edward Adams testifies on page 334 the following: A. The Watch Tower Bible & Tract Society furnished the plates of various issues of the "Bible Students Monthly" and we have printed the "Bible Students Monthly" tracts as their orders have come in. Q. Did you have a reprint of Volume 8, No. 4? A. Yes sir. Q. What date? A. October 4, 1917.

This was four months "AFTER" the Espionage Act of June 1917 had already been made law!

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Petition for Writ of Error.

United States District Court

FOR THE EASTERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

vs.

JOSEPH F. RUTHERFORD, WILLIAM E. VAN AMBURGH, ROBERT J. MARTIN, FREDERICK H. ROBISON, GEORGE H. FISHER, CLAYTON J. WOODWORTH, A. HUGH McMILLAN,

Defendants.

2

To the Honorable the Judges of the United States Circuit Court of Appeals, for the Second Circuit:

And now comes the above-named defendants, Joseph F. Rutherford, William E. Van Amburgh, Robert J. Martin, Frederick H. Robison, George H. Fisher, Clayton J. Woodworth, A. Hugh McMillan, and each of them, by their attorneys, Sparks, Fuller & Stricker, and together and each for himself complain and complain^d that in the record and proceedings had in the trial of the above-entitled cause, and also in the verdict of the jury therein rendered on the 20th day of June, 1918, the order entered on the motion in arrest of judgment, and also in the rendition of the judgment in the above-entitled cause in the said

3

4 *Petition for Writ of Error*

United States District Court for the Eastern District of New York, had at the June, 1918, Term thereof, on the 20th and 21st days of June, 1918, manifest error hath happened to the great damage of the said defendants and each of them.

Wherefore, the said defendants pray, and each of them prays, for the allowance of a writ of error and for such orders and processes as may cause all and singular the record and proceedings in said case to be sent to the Honorable Judges of the United States Circuit Court of Appeals for the Second Circuit under
5 and according to the laws of the United States in that behalf made and provided, so that the same being inspected, the said Judges of the said Circuit Court of Appeals for the Second Circuit may cause further to be done therein to correct that error, what of right and according to law ought to be done, and also that an order be made herein that all other proceedings in this action in this court be stayed, and each of the defendants admitted to bail, until the determination of said writ of error by the said United States Circuit Court of Appeals for the Second Circuit, and your petitioner and petitioners will ever pray.

Dated, June 21st, 1918.

6 SPARKS, FULLER & STRICKER,

Attorneys for Defendants,
Office & P. O. Address,
44 Court Street,
Borough of Brooklyn,
City of New York.

Petition for Writ of Error.

7

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

vs.

JOSEPH F. RUTHERFORD, WILLIAM E. VAN AMBURGH, ROBERT J. MARTIN, FREDERICK H. ROBISON, GEORGE H. FISHER, CLAYTON J. WOODWORTH, A. HUGH MACMILLAN and GIOVANNI DECECCA,

Defendants.

8

To the Honorable the Judges of the United States Circuit Court of Appeals, for the Second Circuit:

And now comes the above-named defendant, Giovanni DeCecca, by his attorneys, Sparks, Fuller & Stricker, and complains that in the record and proceedings had in the trial of the above-entitled cause, and also in the verdict of the jury therein, rendered on the 20th day of June, 1918, the order entered on the motion in arrest of judgment, and also in the rendition of the judgment in the above-entitled cause in the said United States District Court for the Eastern District of New York, had at the June, 1918^d Term thereof, on the 20th and 21st days of June, 1918, manifest error hath happened to the great damage of the said defendant, Giovanni DeCecca.

9

Wherefore the said defendant, Giovanni DeCecca, prays for a reversal of said judgment and for the processes as may cause all and singular the record allowance of a writ of error and for such orders and

and proceedings in said case to be sent to the Honorable Judges of the United States Circuit Court of Appeals for the Second Circuit under and according to the laws of the United States in that behalf made and provided, so that the same being inspected, the said Judges of the said Circuit Court of Appeals for the Second Circuit may cause further to be done therein to correct that error, what of right and according to law ought to be done, and also that an order be made herein that all other proceedings in this action in this court be stayed, and this defendant admitted to bail, until the determination of said writ of error by the said United States Circuit Court of Appeals for the Second Circuit, and your petitioner will ever pray.

Dated December 21st, 1918.

SPARKS, FULLER & STRICKER,
Attorneys for Defendant, Giovanni DeCecca,
Office & P. O. Address,
44 Court Street,
Borough of Brooklyn,
City of New York.

Order Allowing Writ of Error.

13

At a Sated Term of the United States Court
for the Eastern District of New York,
held at the Post Office Building in the
Borough of Brooklyn, City of New
York, on the 21st day of June, 1918.

Present: Hon. Harland B. Howe,
United States District Judge.

UNITED STATES OF AMERICA

vs.

JOSEPH F. KUTNERBROD, WILLIAM
K. VAN AMBURGH, ROBERT
J. MARTIN, FREDERICK H. KIL-
WIN, GEORGE H. FISHER, CLAY-
TON J. WOODWORTH, A. HUGH
MACMILLAN,

Defendants.

Upon the motion of Sparks, Puller & Stricker, at-
torneys for the defendants, Joseph F. Kutnerbrod,
William K. Van Amburgh, Robert J. Martin, Fred-
erick H. Kilwin, George H. Fisher, Clayton J. Wood-
worth, A. Hugh MacMillan, and upon filing a petition
for a writ of error, it is

Ordered that a writ of error be and the same hereby
is allowed, returnable according to law.

HARLAND B. HOWE.

Judge of the United States District Court

14

15

16 **Order Allowing Writ of Error.**

At the June Term of the United States District Court, as extended, held in and for the Eastern District of New York, in the Post Office Building, in the Borough of Brooklyn, City of New York, on the 21st day of December, 1918.

Present: Hon. Thomas I. Chatfield,
United States District Judge.

17 UNITED STATES OF AMERICA

vs.

JOSEPH F. RUTHERFORD, WILLIAM E. VAN AMBURGH, ROBERT J. MARTIN, FREDERICK H. ROBISON, GEORGE H. FISHER, CLAYTON J. WOODWORTH, A. HUGH MACMILLAN and GIOVANNI DE-CECCA,

Defendants.

18 Upon the motion of Sparks, Fuller & Stricker, attorneys for the defendant, Giovanni DeCecca, and upon filing a petition for a writ of error, it is

Ordered that a writ of error be and the same hereby is allowed, returnable according to law.

THOMAS I. CHATFIELD,
Judge of the United States District Court.

Writ of Error.

19

United States of America ss:

The President of United States of America, to the Judges of the District Court of the United States for the Eastern District of New York, GREETING:

Because in the record and proceedings as also in the rendition of the judgment of a plea which is in the District Court before you, or some of you, between the United States of America, plaintiff, and Joseph F. Rutherford, William E. Van Amburgh, Robert J. Martin, Frederick H. Robison, George H. Fisher, Clayton J. Woodworth, A. Hugh MacMillan, defendants, a manifest error hath happened to the great damage of the said Joseph F. Rutherford, William E. Van Amburgh, Robert J. Martin, Frederick H. Robison, George H. Fisher, Clayton J. Woodworth, A. Hugh MacMillan, defendants, and each of them, as is stated and appears by their complaint and the complaint of each of them;

20

We, being willing that such error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Honorable the Judges of the United States Circuit Court of Appeals for the Second Circuit, at the Borough of Manhattan, City of New York, at the court room of said court in the United States Court House, in the Borough of Manhattan, City of New York, together with this writ, so that you have the same at the said place before the Judges aforesaid on the 19th day of July, 1918, that the record and proceedings aforesaid, being inspected,

21

22

Writ of Error

the said Judges of the said United States Circuit Court of Appeals for the Second Circuit, may cause further to be done therein to correct that error, what right and according to the law and custom of the United States ought to be done.

Witness, the Hon. Edward Douglas White, Chief Justice of the Supreme Court of the United States, this 21st day of June, 1918, and of the Independence of the United States the one hundred and forty-second.

23 (Seal)

PERCY G. B. GILKES,
Clerk of the District Court of
the United States of America for
the Eastern District of New York
in the Second Circuit.

by

J. G. COCHRAN,
Deputy Clerk.

The foregoing writ is hereby allowed:

HARLAND B. HOWE,
United States District Judge.

24

Writ of Error.

25

United States of America, ss:

The President of the United States of America, to
the Judges of the District Court of the United
States for the Eastern District of New York,
GREETING:

Because in the record and proceedings as also in
the rendition of the judgment of a plea which is in
the District Court before you, or some of you, be-
tween the United States of America, plaintiff, and
Joseph F. Rutherford, William E. Van Amburgh,
Robert J. Martin, Frederick H. Robison, George H.
Fisher, Clayton J. Woodworth, A. Hugh MacMillan,
and Giovanni DeCecca, defendants, a manifest error
hath happened to the great damage of the said Gio-
vanni DeCecca, one of the defendants, as is stated and
appears by his complaint;

26

We, being willing that such error, if any hath been,
should be duly corrected and full and speedy justice
done to the party aforesaid in this behalf, do command
you, if judgment be therein given, that then, under
your seal, distinctly and openly, you send the record
and proceedings aforesaid, with all things concerning
the same to the Honorable the Judges of the United
States Circuit Court of Appeals for the Second Cir-
cuit, at the Borough of Manhattan, City of New York,
at the court room of said court in the United States
Court House, in the Borough of Manhattan, City of
New York, together with this writ, so that you have
the same at the said place before the Judges afore-
said, on the 10th day of January, 1919, that the rec-
ord and proceedings aforesaid, being inspected, the
said Judges of the said United States Circuit Court
of Appeals for the Second Circuit, may cause further
to be done therein to correct that error, what of right
and according to the law and custom of the United
States ought to be done.

27

28

Writ of Error

Witness, The Hon. Edward Douglas White, Chief Justice of the Supreme Court of the United States, this 21st day of December, 1918, and of the Independence of the United States the one hundred and forty-second.

(Seal)

PERCY G. B. GILKES,
Clerk of the District Court of
the United States of America for
the Eastern District of New
York, in the Second Circuit.

by

J. G. COCHRAN,
Deputy Clerk.

29

The foregoing writ is hereby allowed.

THOMAS I. CHATFIELD,
United States District Judge,
Holding the June, 1918, Term as
extended.

30

Indictment.

31

**DISTRICT COURT OF THE UNITED STATES
OF AMERICA,****FOR THE EASTERN DISTRICT OF NEW YORK.**

At a Stated Term of the District Court of the United States of America, for the Eastern District of New York, begun and held in the Borough of Brooklyn, City of New York, within and for the District aforesaid, on the third day of April, in the year of our Lord one thousand nine hundred and eighteen, and continued by adjournment to and including the sixth day of May, in the year of our Lord one thousand nine hundred and eighteen.

32

Eastern District of New York, ss:

The Grand Jurors of the United States of America, within and for the district aforesaid, on their oaths present that on the sixth day of April, nineteen hundred and seventeen, a joint resolution was adopted by the Senate and House of Representatives of the United States declaring a state of war between the United States of America and the Imperial German Government, and that on said date the President of the United States of America issued a proclamation that such a state of war existed, and continually from the said date until the present time an open and public war was and is still being prosecuted and carried on between the United States of America and the said Imperial German Government.

33

That during the period from the sixth day of April, nineteen hundred and seventeen, to the date of the filing and presentation of this indictment the United States has been at war with the Imperial German Government, and during said period of time Joseph F. Rutherford, William E. Van Amburgh, Robert J.

Martin, Fred H. Robison, George H. Fisher, Clayton J. Woodworth, Giovanni De Cecca, and A. Hugh McMillan (hereinafter called defendants), at the Borough of Brooklyn, County of Kings, State and Eastern District of New York and within the jurisdiction of this Court, unlawfully and feloniously did conspire, combine, confederate and agree together, and with divers other persons to the said Grand Jurors unknown, to commit a certain offense against the United States of America, to wit: the offense of unlawfully, feloniously and wilfully causing insubordination, disloyalty and refusal of duty in the military and naval forces of the United States of America when the United States was at war, to the injury of the military and naval forces of the United States of America, and to the injury of the United States of America, in, through and by personal solicitations, letters, public speeches, distributing and publicly circulating throughout the united States of America a certain book called "Volume VII. Bible Studies. The Finished Mystery," and distributing and publicly circulating throughout the United States certain articles printed in pamphlets called "Bible Student's Monthly," "Watch Tower," "Kingdom News" and other pamphlets not named, which said book and pamphlets were to be published and distributed throughout the Eastern District of New York, and throughout other sections of the United States of America, and which said solicitations, letters, speeches, articles, books and pamphlets would and should persistently urge insubordination, disloyalty and refusal of duty in the said military and naval forces of the United States of America, to the injury of the United States of America, and to its military and naval forces. The said defendants, and each of them, in furtherance of said conspiracy did commit the following

35

36

OVERT ACTS.

1. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, did compile and cause to be compiled certain reports, and did add to them certain original writings, in the production of a book hereinbefore mentioned, called "Volume VII. Bible Studies. The Finished Mystery," a copy of which is hereto attached and made a part hereof, marked Schedule A.

2. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, did publish and cause to be published the said book entitled "Volume VII. Bible Studies. The Finished Mystery," and did cause the same to be copyrighted in the name of the People's Pulpit Association.

3. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, did distribute and cause to be distributed to one Jerry De Cecca and one Carmelo Nicita, while the said Jerry De Cecca and Carmelo Nicita were members of the military forces of the United States of America, attached to Camp Devens, and to certain other persons to the Grand Jurors unknown in and about the said Eastern District of New York and other parts of the United States of America, copies of the said book entitled "Volume VII. Bible Studies. The Finished Mystery," a copy of which is hereto attached and marked Schedule A and made a part hereof.

4. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, received a letter

written in Italian from one Frank D'Onofrio, at that time a member of the military forces of the United States of America, addressed to the Watch Tower Bible and Tract Society, a copy of which is hereto attached and marked Schedule B, and made a part hereof, and the defendants, and each of them, made and caused to be made a translation of the said "D'Onofrio" letter from Italian into English, a true and correct copy of which translation into English is hereto attached and made a part hereof, marked Schedule C.

41 5. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, did distribute and cause to be distributed to Carmelo Nicita and Jerry De Cecca, members of the military forces of the United States of America, and to other persons to the Grand Jurors unknown, in and about the Eastern District of New York, and in certain camps and military establishments of the United States of America, and in other parts of the United States of America, copies of the translation of the said "D'Onofrio" letter, a copy of which is hereto annexed and marked Schedule C, and made a part hereof.

42 6. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, reprinted and caused to be reprinted a certain letter which they had received, dated the nineteenth day of September, nineteen hundred and sixteen, signed by Clara Cerulli, containing an account of the trial of one Remigio Cuminetti, an alleged member of the International Bible Students Association, for a violation of the military law in Italy, copy of which is hereto annexed and marked Schedule D and made a part hereof, and

which said reprinted letter in pamphlet form the defendants, and each of them, did distribute and cause to be distributed to various persons whose names are to the Grand Jurors unknown, and a true and correct translation into English, which also the said defendants, and each of them, did distribute and cause to be distributed, is hereby attached, marked Schedule E and made a part hereof.

7. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, did cause to be printed and distributed throughout the United States of America, particularly to men subject to become members of the military forces of the United States, to wit: men liable to be selected under the Act of Congress approved May 18, 1917, for the military service of the United States of America and certified into said military service for war against the Imperial German Government, an affidavit subscribed and sworn to by William E. Van Amburgh, a copy of which affidavit is hereto annexed and marked Schedule F and made a part hereof.

8. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, did send or cause to be sent to one Jerry De Cecca, who was at that time a member of the military forces of the United States of America, attached to Camp Devens, State of Massachusetts, certain letters, copies of which are hereto annexed and marked Schedule G and made a part hereof.

9. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, did send and cause to be sent to one Carmelo Nicita, who was at

that time a member of the military forces of the United States of America, attached to Camp Devens, State of Massachusetts, certain letters, copies of which are hereto annexed and marked Schedule H and made a part hereof, which letters were written in Italian, true and correct translations of which are hereto annexed and marked Schedule I and made a part hereof.

All against the peace and dignity of the United States of America and contrary to the form of the Statute in such case made and provided.

47

SECOND COUNT.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that on the sixth day of April, nineteen hundred and seventeen, a joint resolution was adopted by the Senate and House of Representatives of the United States declaring a state of war between the United States of America and the Imperial German Government, and that on said date the President of the United States of America issued a proclamation that such a state of war existed, and continually from the said date until the present time an open and public war was and is still being prosecuted and carried on between the United States of America and the said Imperial German Government.

48

That during the period from the sixth day of April, nineteen hundred and seventeen, to the date of the filing and presentation of this indictment the United States has been at war with the Imperial German Government, and during said period of time Joseph F. Rutherford, William E. Van Amburgh, Robert J. Martin, Fred H. Robison, George H. Fisher, Clayton J. Woodworth, Giovanni De Cecea, Robert H. Hirsh and A. Hugh McMillan (hereinafter called defend-

ants), at the Borough of Brooklyn, County of Kings, State and Eastern District of New York and within the jurisdiction of this Court, unlawfully and feloniously did conspire, combine, confederate and agree together, and with divers other persons to the said Grand Jurors unknown, to commit a certain offense against the United States, to wit: the offense of unlawfully, feloniously and wilfully obstructing the recruiting and enlistment service of the United States when the United States was at war, to the injury of that service and of the United States of America, in, through and by personal solicitations, letters, public speeches, distributing and publicly circulating throughout the United States a certain book called "Volume VII. Bible Studies. The Finished Mystery," and distributing and publicly circulating throughout the United States of America certain articles printed in pamphlets called "Bible Student's Monthly," "Watch Tower," "Kingdom News" and other pamphlets not named, which said book and pamphlets were to be published and distributed throughout the Eastern District of New York, and throughout other sections of the United States of America, and which said solicitations, letters, speeches, articles, books and pamphlets would and should persistently urge failure and refusal on the part of available persons to enlist in the military and naval forces of the United States and should and would, through and by the means above mentioned obstruct the recruiting and recruiting service of the United States of America when the United States was at war to the injury of that service and of the United States of America. The said defendants, and each of them, in furtherance of said conspiracy did commit the following

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OVERT ACTS.

1. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, did compile and cause to be compiled certain reports, and did add to them certain original writings, in the production of a book hereinbefore mentioned, called "Volume VII. Bible Studies. The Finished Mystery," a copy of which is hereto attached and made a part hereof, marked Schedule A.

53 2. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, did publish and cause to be published the said book entitled "Volume VII. Bible Studies. The Finished Mystery," and did cause the same to be copyrighted in the name of the People's Pulpit Association.

54 3. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, did distribute and cause to be distributed to one Jerry De Cecca and one Carmelo Nicita, while the said Jerry De Cecca and Carmelo Nicita were members of the military forces of the United States of America, attached to Camp Devens, and to certain other persons to the Grand Jurors unknown in and about the said Eastern District of New York and other parts of the United States of America, copies of the said book entitled "Volume VII. Bible Studies. The Finished Mystery," a copy of which is hereto attached and marked Schedule A.

4. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, received

a letter written in Italian from one Frank D'Onofrio, at that time a member of the military forces of the United States of America, addressed to the Watch Tower Bible and Tract Society, a copy of which is hereto attached and marked Schedule B and made a part hereof, and the defendants, and each of them, made and caused to be made a translation of the said "D'Onofrio" letter from Italian into English, a true and correct copy of which translation into English is hereto attached and made a part hereof, marked Schedule C.

5. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, did distribute and cause to be distributed to Carmelo Nicita and Jerry De Cecca, members of the military forces of the United States of America, and to other persons to the Grand Jurors unknown, in and about the Eastern District of New York, and in certain camps and military establishments of the United States of America, and in other parts of the United States of America, copies of the translation of the said "D'Onofrio" letter, a copy of which is hereto annexed and marked Schedule C, and made a part hereof.

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6. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, reprinted and caused to be reprinted a certain letter which they have received, dated the nineteenth day of September, nineteen hundred and sixteen, signed by Clara Cerulli, containing an account of the trial of one Remigio Cuminetti, an alleged member of the International Bible Students Association, for a violation of the military law in Italy, copy of which is hereto annexed and marked Schedule D and made a part here-

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of, and which said reprinted letter in pamphlet form the defendants, and each of them, did distribute and cause to be distributed to various persons whose names are to the Grand Jurors unknown, and a true and correct translation into English, which also the said defendants, and each of them, did distribute and cause to be distributed, is hereby attached, marked Schedule E and made a part hereof.

59 7. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, did cause to be printed and distributed throughout the United States of America, particularly to men subject to become members of the military forces of the United States, to wit: men liable to be selected under the Act of Congress approved May 18, 1917, for the military service of the United States of America and certified into said military service for war against the Imperial German Government, an affidavit subscribed and sworn to by William E. Van Amburgh, a copy of which affidavit is hereto annexed and marked Schedule F and made a part hereof.

60 8. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendant, and each of them, did send or cause to be sent to one Jerry De Cecca, who was at that time a member of the military forces of the United States of America, attached to Camp Devens, State of Massachusetts, certain letters, copies of which are hereto annexed and marked Schedule G and made a part hereof.

9. That during the continuance of said conspiracy, and for the purpose of effecting the object of the same, the said defendants, and each of them, did send and cause to be sent to one Carmelo Nicita, who was

at that time a member of the military forces of the United States of America, attached to Camp Devens, State of Massachusetts, certain letters, copies of which are hereto annexed and marked Schedule H and made a part hereof, which letters were written in Italian, true and correct translation of which are hereto annexed and marked Schedule I and made a part hereof.

All against the peace and dignity of the United States of America and contrary to the form of the Statute in such case made and provided.

THIRD COUNT.

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And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that on the sixth day of April, nineteen hundred and seventeen, a joint resolution was adopted by the Senate and House of Representatives of the United States declaring a state of war between the United States of America and the Imperial German Government, and that on said date the President of the United States of America issued a proclamation that such a state of war existed, and continually from the said date until the present time an open and public war was and is still being prosecuted and carried on between the United States of America and the said Imperial German Government.

63

That throughout the period of time from the sixth day of April, nineteen hundred and seventeen to the date of the filing and presentation of this indictment, the United States of America has been at war with the Imperial German Government; that during said period of time, at the Borough of Brooklyn, County of Kings, State and Eastern District of New York, and within the jurisdiction of this Court, Joseph F. Rutherford, William E. Van Amburgh, Robert J. Martin, Fred H. Robison, George

H. Fisher, Clayton J. Woodworth, Giovanni De Cecca, Robert H. Hirsh and A. Hugh McMillan (hereinafter called defendants), did unlawfully, wilfully and feloniously attempt to cause insubordination, disloyalty, mutiny and the refusal of duty in the military and naval service of the United States when the United States was at war, in, through and by means of personal solicitations, letters, public speeches, a certain book called "Volume VII. Bible Studies. The Finished Mystery," attached hereto and made a part hereof and marked Schedule A, certain articles printed in pamphlets called "Bible Student's Monthly," "Watch Tower," "Kingdom News" and other pamphlets not bearing any title, copies of which in the language in which they were originally written, and true and correct translations of which into English, are hereto attached and marked Schedules B, C, D, E, F, G, H and I and made a part hereof, and other writings and publications, and which said book, pamphlets, letters and writings were then and there during the period of time from April 6th, 1917, to the date of the filing and presentation of this indictment published, circulated and distributed by the defendants in and about the Borough of Brooklyn, County of Kings, State and Eastern District of New York, and at various other places to various persons, the particular persons and places being to the Grand Jurors unknown, against the peace and dignity of the United States of America, and contrary to the form of the statute in such case made and provided.

FOURTH COUNT.

And the Grand Jurors aforesaid, on their oaths aforesaid, do further present that on the sixth day of April, nineteen hundred and seventeen, a joint resolu-

Indictment

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tion was adopted by the Senate and House of Representatives of the United States declaring a state of war between the United States of America and the Imperial German Government, and that on said date the President of the United States of America issued a proclamation that such a state of war existed, and continually from the said date until the present time an open and public war was and is still being prosecuted and carried on between the United States of America and the said Imperial German Government.

That throughout the period of time from April 6th, 1917, to the date of the filing and presentation of this indictment, the United States of America has been at war with the Imperial German Government; that during said period of time, at the Borough of Brooklyn, County of Kings, State and Eastern District of New York, and within the jurisdiction of this Court, Joseph F. Rutherford, William E. Van Amburgh, Robert J. Martin, Fred H. Robison, George H. Fisher, Clayton J. Woodworth, Giovanni De Cecca, Robert H. Hirsh and A. Hugh McMillan (hereinafter called defendants) did unlawfully, wilfully and feloniously obstruct the recruiting and enlistment service of the United States of America to the injury of the service and of the United States of America in, through and by means of personal solicitations, letters, public speeches, a certain book called "Volume VII. Bible Studies. The Finished Mystery," attached hereto and marked Schedule A and made a part hereof, certain articles printed in pamphlets called "Bible Student's Monthly," "Watch Tower," "Kingdom News," and other pamphlets not bearing any title, copies of which in the language in which they were originally written, and true and correct translations of which into English are hereto attached and marked Schedules B, C, D, E, F, G, H and I and made a part hereof, and other writings and publications, and which said

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book, pamphlets, letters and writings were then and there during the period of time from April 6th, 1917, to the date of the filing and presentation of this indictment published, circulated and distributed by the defendants in and about the Borough of Brooklyn, County of Kings, State and Eastern District of New York, and within the jurisdiction of this Court, and at various other places to various persons, the particular persons and places being to the Grand Jurors unknown, intending and attempting to cause and influence various persons available for military duty to fail to register and to refuse to submit to registration and draft for service in said military and naval forces and to fail and refuse to enlist for services therein and by inciting others so to do, notwithstanding the requirements of said laws in that behalf and notwithstanding the patriotic duty of such persons and others to so register and submit to registration and draft and so to enlist for service in said military and naval forces and notwithstanding the cowardice involved in such failure and refusal, all of which was to be accomplished by the use of all the means and methods aforesaid as a protest against and as a forcible means of preventing, interfering with, hindering, and delaying the execution of said laws of the United States and also to interfere with, hinder and delay the Government of the United States in its lawful efforts to build up and maintain an Army for the carrying on of said war with the Imperial German Government, and should obstruct the recruiting and recruiting service of the United States when the United States was at war to the injury of that service and of the United States of America, against the peace and dignity of the United States of America, and contrary to the form of the statute in such case made and provided.

MELVILLE J. FRANCE,
United States Attorney for the
Eastern District of New York.

Exhibit A.

This exhibit is a book, the same as Exhibit 1 in evidence, the original of which is to be submitted to the Court under stipulation of the parties.

Exhibit B.

Camp Dix, N. J., Oct. 6th, 1917.

Watch Tower Bible and Tract Society,
13-17 Hicks St.,
Brooklyn, N. Y.

Fratelli in Cristo:

Ti foro sopesse che a ieri giorno 5 mentre si preporora la Compagnia per fone l'istruyioni d'arm i ho fatto una grande confessione d'fede.

Essendo che da quando obbiamo arri voti que nel compo mi hanno fatto fore le passeggiato assieme cogli altri io cio lo detto ol Capitano poreichie volte chenon volevo fone listrugion perche era contro la mia coscienza e leu mi hi sempie rispo sta che coli istruzioni non si ummazzi mai nessurio e cosi io ho trirota avanti fino a ieri dopo prauzo, quando il capitano ha fatto prendere attutti un pezzodi legno ossis una stick per ciossuno, per cisarlo come fucile. To non ha voluto preundere la stick Tl capitano na ha gridoto: "D'onofrio prende la stick" ed io ho risposto, Non posso prerderla perche la nia coscienza non lo richiede e liu dinuoro disse: "D'onofrio prende la stick" Sou che voi adesso sei al nosto comando" To ho risposto: No, is non sono nel vostio comando, il onio comandatore e Jddis e non piu oltidi: Allora hu chianio una Squadra di otto persone per forzarnu di preudere

la steche, e lo un, ho bittato per terra dicendo: Fote quello che volete su dime Jddis ei penzera Allore corse il copitano su di me col fucile colla baionetta che splo lui ciaveva il fucile propri e lutti ojbi altri soldati usavano le stecche per che facile non ce l'anno Lui venne su dime e nu punto il fucile colla baionetta sul petto dicendo: "Sou che tu non prior ri-fiutare il servizio military subito prende lastecca altrumendo sarsi punito a morte dolla Leggia marziale" To rispose: E la leggea Morziole piu forte del nostro signore Golvatore e
 77 Creatore del Mondo? Lui rispose "No, ma tu deve fore od il nostro comando, altrimenti sarol punito a morte" To rispose: Non imposte To legge nella Bibbia dove dici "Tu non deve ammazzare." e is non voglio ammazzare, fote quelle che volete sulla vita mia ma is non mai amezzero, Alloro lnu hir prese per il petto e nu porto d'avanti al Colonnello e il Colonnello rispose: "Portali in pugione subito Me poi vidde che io era proprio forte nella parte del" Signore allore dissero: "fotesi fore qualche lavore Cosi na hanno messo in cucina. Loro lo sapavano quolera la mia intezione ma hanno provate di mettermi paura per farm cambiar intenzione Adesso mi famio alzare alle
 78 4 di mattina olle 10 di sema per dispetto ma a me non mi importa il signore ci pensera.

Se voi non credete che is ho fatto questa confessione potete domandore le sequenti person: Umberto Picciotti e Guiseppe Bernardo che soni giu nella stessa compagnia che quando is rifiuto la stecca tutta la compagnia qrizavario contro di me circa 185 persons contro di me ed io ho stats sempre col dire: I do not want to take the stick because it means to kill the Humanity this against the Lord's comendaments.

Dippu caro fratello non soche cosa mi fors ancora adesso tutti gli ufficiaio sono contri di me non uni giv-ordono piu famio grielle che vogliono il signore ci pensora.

Pregavi di far publicar questania confessione, ol secondo numero del W. T.

Non lio augora ricevuto il W. T. giu nel campo forse l'orvete mandate a Wilmington?

Ors non ho piu che cire avrei tauto da dire nia non posso speganui tanto bene con la lettera vorei patlarti avvoce e di poter recontorti tutti guelle che im che sto possando.

So hiti tutti i frotelli d classe Italiani e Americani e mi diso il vosto

Off mo Frotello per il Signore

(Signed) FRANK D'ONOFRIO

Company D, 307th M. G. Batt.

Military Branch,

Camp Dix,

Trenton, N. J.

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Schedule C.

(Copy.)

Translation.

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(Letter from an Italian Brother in a Military Camp.)

Camp Dix, Company D, 307th M. G. Battery,
Military Branch, Camp Dix, Trenton, N. J.

Watch Tower Bible & Tract Society.

Dear Brother in Christ:

I will let you know that yesterday, Oct. 5th, while the company was getting ready for military training, I made a good confession of my faith. Since we arrived here in camp I was allowed the same freedom

as others in going about. I have told the captain many times that I would not have training myself for military service, because it was against my conscience, and in each case he answered me that with military training I would never kill anybody.

Things went along in this way until yesterday afternoon, Oct. 5th, when the captain ordered everyone to take a stick in his hand to use instead of a gun. As I did not take the stick the captain shouted at me—"D'Onofrio! take the stick!" And I answered him—"I cannot take it because my conscience will not permit me," and he again shouted—"D'Onofrio, take the stick; don't you know that you are now under our command?" And I replied: "No, I am not under your command; my commander is God and nobody else!" Then he called on a company of eight persons to force me to take the stick and I threw myself on the ground saying: "Do what you want with me; God's will be done!" Then the captain run on me with a gun and bayonet, as he was the only one who had a gun while all the others used sticks.

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He came at me and pointed the bayonet of his gun on my chest, saying: "Don't you know that you cannot refuse military service; take the stick right away otherwise you will be punished with death by martial law," and I answered: "Is the martial law greater than our Lord, Savior and Creator of the world?" He answered: "No, but you must obey our command; otherwise you will be punished with death." I answered: "I don't care; I read in the Bible where it says, 'Thou shalt not kill'; I don't want to kill; do what you like with my life, but I will not kill."

Then he grabbed me by the chest and took me before the colonel, and the colonel said: "Take him in the prison right away"; but when they saw I was very strong on the Lord's side, they said: "Let him do

other work." So they have put me in the kitchen. They already knew my intention but tried to frighten me and thereby cause me to change my purpose. Now they make me get up at 4 o'clock in the morning and work until 10 at night for spite, but I don't care for the Lord will overrule their bad treatment.

If you don't believe that I made this confession of faith you can inquire of the following persons: Robt. Picciotti and Joseph Bernardo who were in the same company at the same time, because when I refused to take the stick the whole company of 185 persons shouted at me, and I was continually saying while they were shouting: "I don't want to take the stick because it means to kill humanity. This is against the Lord's commandments." They don't even look at me, but they can do with me what they like; the Lord's will be done.

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I ask that this letter be published in the next issue of the Watch Tower. I have not received the Watch Tower here in the camp; maybe you have sent it to Wilmington.

Will close now. I have many things to say which I cannot express so well in a letter and would like to talk with you personally to be able to tell you about all of the experiences thru which I am passing.

87

With greetings to all the brethren of the Italian and American classes, I remain, affectionately,

Your brother in the Lord
FRANK D'ONOFRIO.

I don't know what more they will do to me. Now all the officers are against me.

Schedule D.**UNA BUONA TESTIMONIANZA DI FEDE**

1 Timoteo 6: 11, 12.

Pinerola, 19 Settembre 1916

Diletto fratello in Crista, Capitano della nostra fede:—

89

Perdonami se non risposi prima alla tua cara lettera in data del 20 Luglio 1916 indirizzata alla mia bambina. Ti scrissi una lettera che deve essersi incontrata colla tua come questa pure si incrocera (e piu che probabile) con un'altra delle tue! Ma pazienza, non voglio aspettare piu di darti un riassunto del processo che ebbe luogo ad Alessandria e nel quale il diletto fratello Remigio Cumminetti diede una bella testimonianza della sua ferma fede. La sorella Fanny Lugi ed io vi abbiamo assistito, felici di avere avuto il privilegio d'appoggiare colla nostra presenza la confessione di fede del nostro diletto fratello. Il Presidente l'interrogo a lungo e non pote mai prenderlo in fallo ne in contraddizione contro a se stesso. Eccone in due parole il riassunto:

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Presidente: "Accusato stia attento e davanti al tribunale e la sua causa e grave; sembra che abbia voglia di ridere!"

Il fratello Cuminetti risponde: "Non posso cambiare l'espressione del mio volto. Ho il cuore cosi pieno di gioia che il mio viso riflette l'allegria."

Presidente: "Perche non indosso la Divisa militare rifiutando ripetutamente di servire la Patria?"

Cuminetti: "Se non fosse per quello, non sareit qui, non avendo commesso ulla di riprovevole, all'infuori di non aver voluto indossare una Divisa che non

e adatta per i figliuoli dell'Iddio che io servo. Per la stessa ragione mi rifiutai anche di mettermi il distintivo obbligatorio nella fabbrica dove lavorava, perche quelle stellette rappresentavano la Guerra e l'Odio; invece che il distintivo dei figliuoli di Dio dev'esser la pace e l'amore pel prossimo."

Presidente: "E' vervo che nelle carceri di Cuneo vi siete svestito e siete rimasto in camicia e mutande?"

Cuminetti: "Sì signor e perfettamente vero. M'avevano vestito a forza tre volte, ed io per tre volte mi svestii, non volendo indossare una Divisia che per me implicava odio per il prossimo. Non e ch'io mi sia ribellato o rivoltato di fare del bene agli altri. Anzi se le avessi darei cento vite fino all'ultima goccia del mio sangue per il bene del mio prossimo. Mi diano qualunque lavoro, anche il piu ignominioso ed abbietto, da fare, ed io molto volentieri mi adattero a tutto per sollevare altri; ma Giammai movero un dito per fare del male o del danno ad un mio simile, il quale, Iddio mi dice di amarlo e non odiarlo." 92

Presidente: "Che scuola ha fatto?"

Cuminetti: "Quello ha poca importanza, ho studiato la Bibbia." 93

Presidente: "Le domando che scuola ha fatto. Risponda a quello che le vien domandato."

Cuminetti: "Ho fatto fino alla terza e per due anni ho seguito i corsi serali; ma le ripeto che quello ha poca importanza in paragone a quanto imparai studiando la preziosa Rivelazione divina."

Presidente: "Ha passato la visita militare?"

Cuminetti: "Sì, fui vistato tre volte."

Presidente: "Peccato per lei che sia venuto alla conoscenza di certe persone (la sorella Fanny Luggi ed io) che l'hanno messo su una falsa strada. Da quanto tempo studia quel libro (con disprezzo) che chiama Bibbia?"

Cuminetti: "E da sei anni che studio quel Libro; e mi rincresce solo una cosa; di non averlo conosciuto prima."

President: "Chi e che vi insegna quella nuova religione?"

Cuminetti: "Iddio stesso insegna i Suoi. Gli Studiosi della Bibbia più anziani mi aiutano a comprendere la Verità, ma Iddio solo apre gli occhi del nostro intendimento."

95 Presidente: "Sapete voi che è molto grave il vostro rifiuto di ubbidienza? Siete voi pienamente coscienti di ciò a che andate incontro?"

Cuminetti: "Sì, sì lo so benissimo; son pronto a tutto quel che può venire, anche alla fucilazione, ma non posso rompere il mio patto col Dio della Bibbia, il quale io adoro."

Il Presidente dà la parola all'avvocato governativo che condanna o domanda la condanna di Cuminetti a 4 anni e 4 mesi di reclusione.

L'avvocato difensore si alza e rende una brillante testimonianza alla condotta esemplare del nostro diletto fratello, che lavorò nelle officine per sei anni consecutivi senza che mai nessuno avesse potuto rimproverargli, neppure dirgli una parola disonesta o dissonante. L'avvocato disse: "Remigio Cuminetti si rifiutò di mettere il distintivo della guerra perché portava già all'occhiello il distintivo dei figli della pace e della gioia. Il Cuminetti non ha voluto accomodarsi colla sua coscienza, ossia non ha voluto agire contro la sua coscienza. Mettendosi quel distintivo rimaneva al suo posto esonerato e riformato con un discreto guadagno vicino ai suoi cari, egli preferì la via del sacrificio, cosciente pienamente di ciò che implicava il suo rifiuto. Con calma e serenità si allontanò di tutto. Il caso di Cuminetti è un caso eccezionale, un caso unico in Italia e non dobbiamo ammirarlo. Il Cuminetti lesse nella

Bibbia che Iddio comanda. "Non uccidere," ed egli non vuole uccidere. Come un "Tolstoi," un "San Francesco d'Assisi" egli è apóstolo d'Amore. Il Cuminetti è in perfetto possesso delle sue facoltà mentali (Volevano farlo passare per scemo o matto, naturalmente!) Non è il Cuminetti che agisce ma è lo spirito della Bibbia che si è impossessato di lui, e che lo fa agire contro i suoi interessi personali."

I giudici escono, e dopo cinque minuti ritorano e leggono la sentenza: "Il Cuminetti per rifiuto di ubbidienza al Re ed alle leggi della nazione vien condannato a tre anni e due mesi di detenzione." Il fratello Remigio ringrazia allora con un suo speciale bel sorriso.

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Quando il Presidente gli domando se avesse qualche cosa da aggiungere per la sua difesa, egli rispose: "Io avrei tante cose da dire sull'amore di Dio e sul Suo Piano di Redenzione per la salvezza di tutta l'umanità." Il Presidente essendosi annoiato, disse: "Non è quello che le vien domandato, ne abbiamo già sentito troppo sopra questo soggetto, domando se ha qualche cosa da aggiungere per la sua difesa." No rispose Remigio con viso raggiante. "Le ripeto solo ciò ch'io ho detto; cioè, son pronto a dare la mia vita per amore del mio prossimo; ma non moverò un dito per fargli del male dovess'io pure essere fucilato."

99

La seduta è tolta. La sorella Fanny ed io abbiamo potuto avere un quarto d'ora di trattenimento col nostro fratello diletto il quale con tanto coraggio e forza prese la parte di Dio. Tutti lo ammirarono. Perfino i giudici e gli accusatori rimasero meravigliati del suo contegno umile, ma nello stesso tempo pieno di coraggio del quale solo i figliuoli della luce posseggono, perchè non sanno inginocchiarsi che davanti al Signore solo—degnò di adorazione e di assoluta obbedienza.

Per ora il diletto fratello Remigio e a Gaeta, un posto splendido, pieno di sole e d'incantevole bellezza della natura. Egli scrive lettere esultanti di amore e di gioia, dicendo che non gli sembra neppure di essere in prigione. Tutti gli vogliono bene. Di fatto per i figli di Dio le mura di pietre non sono una prigione; cancelli e sbarre di ferro non sono gabbie; sotto al ferroed alle pietre l'anima innocente trova un pacifico eremitaggio. Cos'è il disprezzo senza la colpa? La virtù sprezza il disprezzo degli uomini, ed il castigo non meritato e una prova lampante per l'innocenza ed accumula sopra la testa un gran peso di gloria futura.

Affettuosi saluti a tutti i fedeli ed a te, caro fratello De Cecca dalla

Vostra piccola sorella nella lotta

CLARA CERULLI

Salmo 46 San Giovanni 15:9-13.

LA MIA RISOLUZIONE MATTUTINA

Desidero che il mio pensiero mattutino Sara:

“Che renderò io al Signore per tutti i Suoi benefici che son sopra me? Io prenderò il calice della salvezione e invocherò il nome del Signore (per grazia d'aiuto). Io pagherò i miei voti al Signore.”—Salmo 116:12-14

Ricordandomi della chiamata divina, “Adunatemi i miei santi, i quali hanno fatto meco patto con sacrificio” (Salmo 50:5), Io risolvo che con la grazia assistente del Signore adempiro oggi, come un santo di Dio, i miei Voti, continuando l'opera di sacrificare la carne ed i suoi interessi, acciocche io pervenga

all'eredita Celeste in coeredita col mio Redentore.

Mi sforzéro di essere semplice e sincero verso tutti.
Hon cerchero il piacere e l'onor proprio, ma quello
del Signore.

Saro attento d'onorare il Signore colle mie labbra,
affinche le mie parole siano untuose e benedette a tutti.

Cerchero d'esser fedele al Signore, alla Verita, ai
fratelli ed a tutti coloro coi quali avro da fare, non
solo nelle grandi faccende, ma anche nelle piccole
cose della vita.

Affidando alla cura divina e al governo della Prov-
videnza me stesso e tutti i miei interessi pel mio alto
bene, cerchero non solo d'esser puro di cuore, ma di
respingere ogni ansietà, ogni scontento ed ogni scorag-
giamento.

Non mormorero e ne mi lagnerò di quel che la
Provvidenza del Signore permettera perche.

"La mia fede sara ferma in Lui, Checche m'accada."

The Watch Tower, Dec. 15, 1916, P. 386.

104

POSIE

1

Ci benedica Iddio, ci benedica
Colui che di ogni cor vede l'interno:
E nei nostri timori il raggio Eterno
Con fortezza ci guida con amor.

2

Egli possente, immenso, e giusto e buono;
Non ci abbandona, non ci lascia soli
Ma ci sorregge negli eccelsi voli
Nelle lotte pel bene e per l'amor.

105

1

Gloria al Padre Celeste, doniamo
A Lui solo del cuore gli affetti;
Gloria a' santi posenti suoi detti;
Gloria al dolce Maestro d'amor.

2

Gloria a lor, dal profondo innalziamo
L'inno ardente di fede, e ripieno
Dell'amor che ci ferve nel seno,
Che ci afforza nei nostri dolor.

3

107

Oh! per Te Salvatore Divino
Ogni pena ci è dolce, io e cara
E la morte, la morte sì amara
Pei mortali, per noi non è già.

4

Anzi bella sarebbe al mattino
Di quest'Era così luminosa;
Dar la vita alla speme radiosa
D'una gloria che eterna sarà.

5

108

Forti dunque negli aspri cimenti,
Nella guerra che il mondo ci giura,
Lotteremo al tionfo della pura
Nostra fede in un giorno miglior.

6

Lotteremo e con trepidi accenti
Nella gioia che ci anima il core
Canterem la possanza, l'onore,
La giustizia di Dio Salvator.

Schedule E.**"AN ITALIAN BROTHER BEFORE THE MILITARY TRIBUNAL.**

"Dear Brethren in Christ:

"I will give you a summary of the trial which took place at Alessandria, and in which our beloved Remigio Cuminetti gave a fine witness of his faith before the Military Tribunal.

"Sister Fanny Luigi and myself were present at the trial, and were happy to have the privilege of supporting with our presence our Brother's confession of faith. The President questioned him long without finding him in a fault. Here is the summary in a few words:

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"President: 'Accused, be careful! You are before the Tribunal, and your position is grave. It seems as if you have a desire to laugh at the situation.'

"Brother Cuminetti: 'I cannot change the expression of my face. My heart is so full of joy that my face reflects its cheerfulness.'

"President: 'Why did you not put on the Uniform? And why did you refuse repeatedly to serve the Fatherland?'

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"Cuminetti: 'If it were not for that, I would not be here; for I have committed nothing reprehensible, except that I have refused to put on a Uniform which is not suitable for the sons of God, whom I serve. In like manner I also refused to wear the distinguishing mark in the factory in which I was working, because that little star represented War and Hate; while the distinguishing mark of the sons of God is Peace, and Love for their neighbor.'

"President: 'Is it true that in the prison of Cuneo you divested yourself of the Uniform and remained only in your underwear?'

"Cuminetti: 'Yes; it is perfectly true. Three times I was dressed by force; and three times I undressed myself; for I was unwilling to wear a Uniform which to me implied hate for my neighbor. By so doing I did not intend to revolt against doing good to others. On the contrary, if I had one hundred lives, I would give all my blood to the last drop for my neighbor's sake. Give me any kind of work, even the most ignominious and abject, to do and I will very willingly adapt myself to it, to do all that I can to uplift others. But never will I give the least help toward doing evil or anything to injure my fellow-man, whom God says I should love and not hate.'

"President: 'What schooling have you had?'

"Cuminetti: 'That is of little importance; I have studied the Bible.'

"President: 'I have asked you what schooling you have had. Answer that which is asked you.'

"Cuminetti: 'I have attended day school for three years, and night school for two years. But I repeat that this is of little importance in comparison to what I have learned in studying the precious Divine Revelation.'

"President: 'Have you passed the military visit?'

"Cuminetti: 'Yes, I was visited three times.'

"President: 'It is a pity that you have made the acquaintance of some persons (Sisters Luigi and Cerulli) who have started you upon a wrong road. How long have you studied this book which you call the Bible?'

"Cuminetti: 'It is now six years that I have studied the Book; and I am sorry that I did not know it long before.'

"President: 'Who teaches you this new religion?'

"Cuminetti: 'God Himself teaches His own. The Elders of the Bible Students help me to understand it; but God alone opens the eyes of our understanding.'

"President: 'Do you know that your refusal to render obedience is a very grave offense? Are you fully aware of what you are going against?'

"Cuminetti: 'Yes, yes! I know very well. But I am ready for all that may come, even to being shot down. I cannot break the covenant that I have made with the God of the Bible whom I adore.'

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"The President then gave the word to the barrister, who asked the President to condemn Cuminetti to four years and four months of solitary confinement.

"The advocate who was defending our Brother then arose and gave a wonderful testimony to the exemplary conduct of Cuminetti, who had worked for six consecutive years in the laboratories without having a person say one word against him. The lawyer said: 'Remigio Cuminetti has refused to wear the distinguishing mark of war because he already wore the distinguishing mark of the sons of peace, of joy. He has not wished to act contrary to his conscience. If he had worn that distinctive mark, he would have retained his position, been relieved from conscription and able to earn a good living for his family. But he preferred the way of sacrifice, fully conscious of what his refusal would mean to him. Calmly and serenely he withdrew from all. Cuminetti's case is a unique one in Italy; and we ought to admire him. He read in the Bible that God commands, "Do not kill," and he does not wish to kill. He is an apostle of love. He is in full possession of his mental faculties; he is neither silly nor mad. The spirit of the Bible has taken possession of him, and makes him act against his personal interests.'

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"The judges went out, and after five minutes returned and read the sentence: 'For his refusal of obedience to the King and to the laws of the nation Cuminetti is condemned to three years and two months of detention.' Cuminetti then rendered thanks with one of his sweetest smiles.

119 "When the President asked him whether he had anything else to add to his defense, he answered: 'I would have many things to say on the subject of God's love and on His Plan of Salvation for mankind.' The President was annoyed, and said, 'That is not what I asked. We have already heard much on this subject. I asked whether you have anything to add to your defense?' With a smiling face Cuminetti answered, 'I repeat what I have said, namely, that I am ready to give my life for my neighbor's sake; but that I will not move a finger to help evil or to injure mankind, even if I myself should be shot.'

120 "The trial is over. Sister Fanny and myself had the privilege of talking for about fifteen minutes with our beloved Brother, who has with great courage and strength stood on the side of God. All admired him. Even the judges and his accusers were astonished at his appearance—humble, but at the same time filled with the courage which the sons of light possess, because they know to kneel only before the Lord, who is worthy of all adoration and absolute obedience.

"At present our beloved Brother is in Gaeta, a beautiful place, with sunshine and the charming beauties of nature. He writes letters which exult in love and joy, saying that it does not seem like a prison to him. All certainly love him. Indeed, for the sons of God walls of stone are not a prison; nor are railings and bars a cage. Under iron and stones the innocent soul finds pacific heritage. What is scorn, where there is no fault? Virtue despises the contempt of men; and

unmerited punishment is a shining proof for the innocent, and accumulates upon their head a great weight of glory.

"Receive, beloved Brethren, and all the beloved ones in the Lord, most affectionate greetings from all your Italian brethren, who are rejoicing so much in seeing that their deliverance is drawing nigh.

"Your Sister in the good fight of faith.

"MRS. CLARA CERULLI—ITALY."

Schedule F.

(Additional Affidavit.)

State of New York,
County of Kings, to wit:

I, W. E. Van Amburgh, do solemnly swear that I am the Clerk and Secretary of the American Headquarters of the International Bible Students Association, located at Brooklyn Tabernacle, 13-17 Hicks Street, Brooklyn. I further state that the International Bible Students Association is a well recognized religious organization, and was founded and organized by Pastor Charles T. Russell, who began the publication of its principles in the year 1879, and that it has existed from that date and was so existing and organized on the 18th day of May, 1917; that said Association is now incorporated and has ecclesias or church organizations in all the States of the United States of America and throughout Canada and Europe; that the creed or principles of said religious organization existing and in force on and prior to the 18th day of May, 1917, forbids its members to participate in war in any form, and are against war in any form; that it and

members of said organization adhere strictly and literally to the teachings of Jesus and the Apostles as set forth in the Bible, to wit: "Thou shalt not kill." "All they that take the sword shall perish with the sword." "No murderer hath eternal life abiding in him." "Follow peace with all men, and holiness, without which no man shall see the Lord." "The Son of Man came not to destroy men's lives, but to save them." "Ye are called to be footstep followers of Jesus." "As we have opportunity let us do good unto all men"; that

125 The Watch Tower, a publication of the Association published twice each month since 1879, and the books of instruction published and furnished to all the members of said Association throughout the world contain statements or principles which are against war in any form. This affiant quotes from the September 1st, 1915, issue of The Watch Tower, wherein is reiterated a statement of the principles of said Association long adhered to by its members concerning war, to wit:

"But someone replies, 'If one were to refuse the uniform and the military service he would be shot.' We reply that if the presentation were properly made there might be some kind of exoneration; but if not,

126 would it be any worse to be shot because of loyalty to the Prince of Peace and refusal to disobey His order than to be shot while under the banner of these earthly kings and apparently giving them support and, in appearance at least, compromising the teachings of our Heavenly King? Of the two deaths we would prefer the former—prefer to die because of faithfulness to our Heavenly King. Certainly one dying for his loyalty to the principles of the Lord's teachings would accomplish far more by his death than would the one dying in the trenches. We cannot tell how great the influence would be for peace, for righteousness, for God, if a few hundred of the Lord's faithful were to follow the course of Shadrack, Meshack and Abed-

negro, and refuse to bow down to the god of war. Like these noble men they might say, 'Our God is able to deliver us, if He chooses so to do; but if He does not choose to deliver us, that will not alter our course. We will serve Him and follow His direction, come what may.' "

Affiant further states that all of the members of said Association or organization, which number many thousands in the United States, and which are in good standing, believe and strictly adhere to the principles of said Association or organization, which are opposed to war and are against war in any form, and believe that it is preferable to suffer death rather than to willingly take the life of any human being, in war or otherwise.

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W. E. VAN AMBURGH,
Address, Brooklyn, N. Y.

Subscribed and sworn to before me this
7th day of August, 1917.

Edw. Stevens,
Notary Public,
County of Kings,
State of N. Y.

(Seal.)

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Schedule G.

Jerry De Cessa
 Co. A 304th Infantry
 Camp Devens, Ayer, Mass.

Unsectarian
 Inter-Denominational
 Christian
 Names enrolled in Heaven.
 Heb. 12:28

One Lord
 One Faith, One Baptism
 One God
 and Father Over All.
 Eph. 4:5-6

131

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 by Wreath)

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Ottobre 19-1917
 Brooklyn, N. Y.

Dear Jerry:

We received you card of the 17th ints. Glad to hear from, and that you went to Lowell, Mass, and saw the class there. I could have sent you the adress of the classe bu I nevery thought tnat you could go to see them.

With this letter I am senting to you the Name and address on Bro. Nicita.

Bro. Carmel Nicita

30th Co. 8th Tra. Batt.

Camp Devens, Ayer, Mass. I donot know if it is alright, but this is the way he wrote us, I have writtin to him but I donot know if he have riceved my letter yet.

I hope that you will not be surprise when you see him. I understand that the captain have convince him to put on the uniform. Il capitano gli dissi Domenica Ottobre 14th, that if he want to gone see his brethern in Springfield, the brethern in the Truth, he could go, but he should put the uniform on him, and so he did. The friends were non so plased when they saw him with the uniform on. He did not realise what that meen, if he had he would not have done it. It meen Soldier! I think he will see the great mistak, if has not already see it. What is the use to be arrested because donot want serve, and then turn round a put the uniform on. If we bealiev it to be a wrogn thing at one time it is a wrong thing at all times. If we have consacreted aoursel to the Lord, and have accepted Christ as our captain, can we serve another captain? No! we cannot serve two masters! Only one at time. In the past we have been serve the wrong master—Satan and sin!! Now we are serving God. We know that those who have not consacred, and donot understand God's plan and porpuse, wi not not understand us, but, it is for us to let them see what we do believe, and what is the wright thing for us to do. "Do what is wright and come what may." We are not to be faithful one day or one week or one year, we are to be faithful unto "death," Revelation, 2:10. ecc. 8.

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I hope Jerry that you will not go back on your covenant which you make you God at your consacration. That covenant meen to serve the Lord and no one else. God is above everybody else, does not make any differ-

ence who it is. There is no one under the sun that he can say that he is above. And we have consecrated ourself to God, therefore we must be faithful to Him! We must not manifest a wrong spirit, in umility, but in ferminess, positive. It sould not take but e moment to see waht is the right thing for us Christians. We can serve only one Master, if we obey the heartly captain we must diiobey our Heavenly captain. If we obey our Heavenly captain, we must disobey our heartly captain, one of the two, which shall we obey! Is foe each one of us to dicide. I decided to

137 obey Christ Jesus! don't you?

Jerry will you let me know if can read Italian, I can write you better in Italian if can read it. So please let me know. Remember that will you?

Try to see Bro. Carmelo Nicita, and the same time see if the address he gave is right.

Riceveid lots of love from all of us.

I am Your Bro. John DeCecca.

Psa 91:1-16, 46:23:

P. S. Read al you can the ward of God—The Scripture Studey.

Schedule G2.

Mr. Jerry De Cecca
Co. A 304th Infantry
Camp Devens
Ayer, Mass.

Octobre 26th, 1917
Brooklyn, N. Y.

My dear Bro. Jerry:

I write these few lines to say that I have told to Bro. Rutherford about your case that you are under arrest and waiting Marshal decision. I asked him if you should have a lawyer in defenting your case, and he said thta might be a good thing, but he said then, where will we get a good one that will be on you side! They are all afraid to spek anything that wolud have the tendesiy against the government. They are alla for War! and any one who think differently is no good, they said. So you so dear Jerry, that you cannot trust in any one at this time, expcet in the Lord's power and Grace.

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So then what you would have to do is, to put yourself in the Lord's hand, and when the case come up before the Court Marshal Tribunal, you can state your position, why you cannot ingauge in such service. You know that overthing you said will be taken down so that the same will be sent to the Government. So then, think well in your mind the most important points, and when you are asked you will answer them. If you will studey Bro. H. Cumminetti's letter, you will git a good points there. Let the Truth do it work!

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You don't need to fear, because they will not shot you down for there is no such law yet. What they might do with you is, to sent you to the Federal prison,

and if they sent you there, it will be much better than go to the trenches, don't you think so? I think so! Much better to go the prison than go to the trenches in France. So then dear Jerry, have a good courage and trust in the Lord. We are not be afraid what a mortal man can do unto us, said the Apostle.

You want have these few points very clear, and that is: that you are a member of the International Bible Students Association, which have been in existence for over 30 years, and that the said Association, forbids its members to participate in war in any form, and are against war in any form; that the said Association, and its members adhere strictly and literally to the teachings of Jesus and the Apostles as set forth in the Bible, to wit: "Thou shalt not kill." "Al they that take the sword shall perish by the sword." "No Murderer hath eternal life aoin in him." "Follow peace with all men, and holiness, without which no man shall so the Lord." The Son of Man came not to destroy men's lives but to save them." And we "Called to follow in His footstep followers of Jesus." "As we have opportunity let us do good unto all men." Said that you bealeve the Teaching of Jesus which are clearly state in the Bible, and that you have consecrated yourself to do the will of the Lord at any cost. Said, that you have already make yourself a soldier of the Cross of Christ, and he is you captain, and thefore you cannot serve two masters. Your master is Christ Jesus and that you are serving Him. "Exsodus 20:13, Mathew 5:21, Roman 13:6-14, Like 9:51-36, 1 Peter 2:21, Galatians 6:7-10,) Christ is our Captain (Hebrews 2:10.) Our armour are not carnal. Ephesians 6:10-16; 17.

Nodubt they will tell you that the old testament teach war ecc. But you can answer them by say: "I am not a Jew, but I am a Christian. The old testa-

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ment is for the Jewish people, and the New Testament is for us Christians. I am not under the teaching of the Old Testament, but under the New Testament, I am 'under Grace' ecc. You might say that the Jewish people were a teyp of us Christians, they were to fight litteral fights with litteral swords, but we Christians are to fight the Godd fight of faith with the Sword of the Spirit—the word of Godd. We are to fight with the symbolical Armour Ephesians 6:10-17.

I am enclosing a copy of the Watch Tower of March 1, 1917 and in it you will find Bro. Remigio Cummetti's letter of his trial before the Military Tribune. I think that you can learn something from reading it. 146

Now Jerry, will you keep us informed of things that are taking place, I mean to let us know how things are work out and when your case will come up, so that if it might be possible for me to come up there I like to do.

Well, Jerry we are right in the time which we have look for so long. We see it more clearly to day that we are approcing the finely end of the evil world "Age" and that the Kingdom of our dear Lord will be established for the blessings of all mankind, when there will be no more "War" Isaiah 2:2-4, the time is not vere fare away, when the nations shall learn war no more. Micah 4: 3,4. 147

Trust in the Lord and be of a good courage and the Heavenly Father will give you strength. Lots of love from all of us I am Your Bro. in Cristo and in the flesh
GIOVANNI DECECCA.

Read Daniel 3:1-30 but
especially verses: 8-30.

Schedule G3.

Dear Jerry De Cecca 2nd Sepet Co. 8th Bn.
 Depot Brigade
 Camp Devens Ayer, Mass.

Novembre 14th, 1917
 Brooklyn, N. Y.

Dear Jerry:

Your letter of the 10 Nov. writtin together with Bro. C. N. was received, very glad to hear from you. Glad to know that you are well, still trusting in the Lord's grace, and hope that you will continue to the very end of your earthly career.

And now you would like to know if you sould do some work in the Hospetal ecc. If it would be right or wrong. Well, jerry, we cannot tell you or any other what they sould do or should not do. It is for each one to deciding for himself what to do, the only thing we can do, one to another is, to advising according to the word of God, and so I will just tell you what I would do if I sould find myself under the same condition as you are. I would settle the matter once for all time; add this is what I would do: As soon as I reach the camp I would try to have an interview with the General-Major General, and tell him I was there under protest, that is, I was brought there by force and not by my own will. I would tell hime that I could not take any part whatsoever in the military service, because it was against the teaching of the Word o God. And as I had consacrated my self to do the Lord's will—as a good soldier of the Cross of Christ. 2 Timthy 2:1-5, and I have to fight the good fighting of faith. 2:Timothy 4:7. And that having made a full consacration of myself unto the Lord, I colud not servi any others, and brack my Covenant with God

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of my salvation, and particularly in the service of Warr! And if the General or any one else sould say to me: Well we understand your position, we know that you conscience will not permit you to do wrong, to go to fight, etc., but we will give you some work that would not be warr. I would answer, that there was nothing that it was not warr! To me was all Warr! If he should say: I will give you a Hospital work, would you like to do that! I would answer no! And if he say to me why you would not work in the hospital! I would answer thus: Because to me is all WAR! It is one big macchinery working togethr, and that macchenery was composed by many parts, but the one big name, was WAR!!!! MILITARISM. So long as I was working under there orders to me was military service—War!. To do some thing in order to avoid punishment ecc, it would meen to compromising, and violatting the principles of the teaching of God's Word. But he may say: Why would you not work in the hospital, or any other good work? I would answer that, so longo as I was doing it under the military order it was WRONG for me to do, I know that by refusing to do I would be punished in some way for refusing their order, but if I would not refusing it, that would meen that I would have to compromising the Truth, and violeting the principles of my belief—the teaching of the Bible. And again he woulu say to me, well, sir! wouldn't you like to do a good work? I would answer Yes! but not under order. But if he sould say, well, we will let to do whatever you like to do, we will not tell you what to do, but let yourself choose whatever you want do—of course they will not do anything like taht, but suppose they would, then I would look and see what good work I could do with my own free wil, what good I could do to my fellow men to help them in any way, I surely

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would look for any opportunity, I would do what the Bible says: "Do good unto all men as ye have the opportunity, by Especially to those of the household of faith." Galatians 6:10 ecc. but I would not do any thing under military order. But he would say to me. What is the difference, to work under military order, and work by your own free will? I would answer that is a great difference. To work under military order, would mean to give my consent to cooperating with in the military service which means, War! to do something by my free will be a different matter altogether.

155 Of course if I should be lafter to my choising, to stay in the Camp or go home, I would surely go home and do some good work at home, but if I was not lafter to that liberty, then I would stay there as a prisoner, and do whatever I would think to be a good work to do, as the opportunity would presenting themself to me, But to do anything under military order, I would not do any thing! I would not put the uniform on me at all, if they would put one me by force, I would take it off just as soon as they would put it on. I would not do little now and little then, just because they tell me to do. I would take the stand once for all time. But not everybody can do that, some do not see that, not even the Uniform should be put on, because, the
156 uniform represents War! However jerry, you must not do what I said that I would, maybe that if I was in your place now, may not be able to do, so I would have to wait until I have to be put under test.

Now Jerry, since you have put on the uniform and probable you have already done some kind of work, I think you better keep on doing some work that you will be order today, and that you think it will be alright, that is, it does not both your conscience. Working in the Hospital is not a bad work.

You know that the officers do not know the difference between the full consecrated Christians and others who are against war for other reasons, and no work has been order by the President that the conscientious objectors should do. The officers in the camp do not know what they should do with the conscientius objectors, realy they have no raght to force them to do anything, they have no right to force the uniform on any one, nor force to do some work, the President is the One that should designated any kind of work yet. All the officers know that very well, of course they do force the conscientious objectors to do something, but they have no right to force them, but when they do force some one to do wrk by force, they do overstepping their authority. The Congress of the United States have made a provision in the Selective Draft Act, to the effect that no person should be compel to engage in the military service who is a member of a well recognized religious organization, the creed or principles or teachings of which forbid its members to engage in war or which are against war in any form. And why want any one violeting the Law which was made by the Congress? When we refuse to obey the commands of the officers, we do not violeting any law. Therefoer, if I should find myself under the same condition as you are and the other Brethern, I would refuse to do anything wahtsoever, I would not do any military service under no condition. As I said in the beginning of this letter that I would make myself very plain to the High offece as soon as I would get at the Camp, and if he or any other offece would order me to do work in any form. I would refuse to do it. And if they mistreating me in some cruel manners, I would tehn made an Affidavit before a lawyer or public notary, by telling him all the facts, and the Name and number of the

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Captain ecc, who had to do with my mistreatment, and sent the affidavit to the Society. They have no right whatsoever to mistreat any one.

I understand that Bro. Nicita and the other Brethern have been given a cold bath, and then either to put on the uniform or go naked, ecc. This was a very Cruel Act, a violation of the Law under which we yet abiding.

161 If we believe that this war is the last one, and that all the kindgmon must go down, so the the Kindom of Christ be established, should we have any part in the military service? I answer No! I would not do the slite thing, it is all War! as long as it is Militarism, it is War! We cannot make those offecers see, because they look at the matter for another standpoint, but it is our business and duty to let them know by take a stand for what we believe. If our stand should cost us something, we should be glad to suffer for the Truth seek. We cannot servi two Masters. We should usa plain language, humble, but positive. We should not talk in any bad manner to the offecers, but in a humble manners; but in a positive way, that they cannot think that we will every change our position. We should tell them that we have consacretd ourself to the Lord
162 and will not go back on our covenant, and if they cannot understand our position, it would not be our fall. The Bible says: "Thou Shalt not Kill," and to servi militarism in anyway, meens to "Kill." La Bibbia says: "he that hate his Bro. is a murderer. 1 John 3:15. to servi militarism is War!

I think I have said enough. Now jerry, do not do what I said that I woulh do, but use your own conscience about the matter, if you think that you can stand the trails then do what you think it is right for you to do. As for me I will servi the Lord alone! "Do what is right, and comes what may."

My the Lord bless you and all tha dear Brethern,
more and more in these trails times. With lots of
love. I am Your Bro. in Christ and in the flesh.

GIVANNI DE CECCA.

Schedule G4.

"Psalm 23:

Brooklyn, N. Y.,
Oct. 16, 1916.

164

Our dear Bro. Jerry:

Your post cards recd was pleased indeed to hear
from you also rec'd a letter from Bro. Riess in which
he sent your address which gives us the privilege of
writing you for which we are very glad.

Would have liked to come with John on Wed. last
but was impossible & when he came back & told
me how it was I was glad I had not gone because it
would have made things worse.

In regard to your experiences they probably will
do everything in their power to break down your will
& to persuade you to put on the uniform & accept
military service.

165

We heard of a young man who went to the camp
there at Ayer from Boston who was a Seventh day
Adventist, went as a conscientious objector, and they
made it so hard for him made him do all the dirty
work and called him so many names that he could
not stand it any longer, he put up his hand & said
he would accept service, but you see he didn't have the
Lord with him or his glorious plan for his strength
or encouragement, we have so many previous promizes

to sustain us & He that is for us is greater than all that can be against us so let us be strong in Him and be willing to suffer for Him at any cost to ourselves even our earthly life for we consecrated it unto death and must complete our sacrifice unto death in order to have a resurrection with our Lord. The Apostle Paul says I count not my life dear unto myself. How much more glorious it would be to die for the Lord & loyalty to his cause & to our covenant than to bow down to the God of war & be shot in the trenches, for soon when all mankind come to see the folly of all this war the lives of those who would not submit to it will stand out as a wonderful witness for the Lord & the Truth we love so dear.

167

Hope you are using all the time at your command in the study of the Volumes.

May the dear Lord help you to understand and you know as the Lord gives us the light and we use it, the light we have he will give us more light.

Bro. Nichita was told that he could go home & see his friends if he would put on the uniform, this is the way they caught him now we don't see how he will be able to take it off, we hope you will take a firm stand & not be persuade under any consideration for they will try to catch you in some way, the evil spirits are very active at this time. Some think to put the uniform on is nothing but when one does he is practically a soldier then.

168

Try & be happy Jerry even if the others are not and let them see the Lords blessing is with you and that you can even rejoice under those circumstances.

And now I must close and with much love & praying the Fathers richest blessing upon you we will say Good-night.

GRACE & JOHN."

Schedule G5.

"Brooklyn, N. Y.,
Oct. 24, 1917.

Our Beloved Bro. Jerry:

Grace Mercy & peace be multiplied unto you.

We rec'd your precious letter to-day & were pleased indeed to hear from you and to know the answer you made to the Officer, may the dear Lord bless you & keep you for Himself is our prayer, & we are rejoicing more & more that you have accepted this wonderful Truth and that you might have the privilege of witnessing for the master in such a wonderful way.

170

You should have council (a lawyer) for your trial & we are wondering how we will know when it will, or how we can find out, so council can be provided John will speak to Bro. Rutherford in the morning & see what he suggests and let you know.

We know of only one Bro. (in Indiana) whose case has been settled he was released on the ground that he was mentally, morally & physically unfit for service.

Are glad you have your books & time for study. All things work to gether for good to them who love the Lord. Rom. 8:28.

171

Willclose with much love and good-night.

Your Bro. & Sr. in the One who is altogether lovely.

GRACE & JOHN.

Psalms 121 125."

Schedule G6.

“(Picture of Building.)

Rice Hotel
(Coat of Arms)

Houston, Texas, January 28, 1918.

Mr. Jerry De Cecca,
2nd Separate Co., Depot Brigade,
Camp Devens, Ayer, Massachusetts.

Dear Brother De Cecca and others:

173 Your very kind letter to hand and I rejoice with you that the Lord is giving you privileges of fellowship together and study of His Word.

Be of good courage, dear brethren, and hold fast. A little while and the fight will be over and then you will be glad that you have stood firm in the Lord and the cause of righteousness. We remember you continually at the Throne of Grace and ask a continued interest in your prayers.

With much love and best wishes, I beg to remain

Your brother and servant by His grace,

J. F. RUTHERFORD.

Dictated but not read.”

Schedule H1.

"School of Christ
for the

TEACHING AND PUBLISHING OF THE WORD

Instructions by Mail

Free 'Teach all Nations'

Incorporated 1884

for the

PROMOTION OF CHRISTIAN KNOWLEDGE

Orally and by Printed Page

'Unto All People'

176

WATCH TOWER BIBLE & TRACT SOCIETY,

Brooklyn, N. Y., U. S. A.

Branches: London, Melbourne, Barmen, Copenhagen,
Orebro, Christiania, Geneva.

21 Gennaio 1918

Caro fratello Nicita ed altri nel Signore:

La vostra cara lettera del 16 corrente é stata ricevuta. Lieti di avere vostre notizie. E che vi rallegro nel Signore.

Ho scritto l'ordine per il libro del sermone per la sorella Rosina Cuzzone, il libre legato in pelle, e non appena verranno gli sara' mandato, adesso non ve ne e' neanche un al Tabernacolo, percio' la potria scrivere che non appena arriveranno gli sara' mandato.

177

Il BSM 'La Caduta Di Babilonia' e' ora in via di stampa, in lingua Italiana speriamo di averlo pronte al piu' presto possibile. Abbiamo lavorato notte e giorno pre preparararlo. Speriamo che tutte le classi italiani ne verranno fare una larga distribuzione non appena sara' pronte.

Vi salutiamo caramente, e siamo i Vostri fratelli nel Signore,

G. DE CECCA.

G. DeC."

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*Indictment***Schedule H2.**

"School of Christ
for the

TEACHING AND PUBLISHING OF THE WORD
Instructions by Mail
Free 'Teach all Nations'

Incorporated 1884
for the

PROMOTION OF CHRISTIAN KNOWLEDGE
Orally and by Printed Page
'Unto All People'

179

WATCH TOWER BIBLE & TRACT SOCIETY,
Brooklyn, N. Y., U. S. A.
Branches: London, Melbourne, Barmen, Copenhagen,
Orebro, Christiania, Geneva.

Caro fratello Nicita:

15 Febbraio 1918

L'abbonamento im Italian costa anche \$1,00 all'anno,
quindi se volett noi lo possiamo rmadare anche in
italia, certo costa anoi di piu', ma noi cerhiamo anche
\$1,00 all'anno. Bisogna che abbiana l'indirizzo cor-
retto ecc.

180

L'idirizzo del fratello Cuminetti non e' fisso, ma
potete scriverlo all'indirizzo della Sorella Cerulli Ec-
colo: Signora Clara Cerulli, 7 Piazza Montebello (Pia-
monte)

PINEROLO, Prov. Torino
Italy

Ca classe di Calitri.

Signor Donato Gautiero Fu Vincenzo Quando scrivete a Calutri, dite: alla

Calitri, Prov. di Avellino Italy Classe dei fratelli in Calitri, onde che il fratello Gautiero vi potra' rispondera: facenco scrivere da un sorella o fratello, perche' se vi scri lui stesso, credo che non la capito in questa ta', Egli e' molto indiatro nel Scrivere, ma e' piemi di fede ed e' colui potto' la Verita In Calitri.

Si puo' mandare anche La manne Celeste se volete, ma pero' noi ne abbiamo solo poche copie, ma forse ne possiamo manda una copie, se voi credete che fare dal bene, cioe' se essa ne fara' profitto.

I Watch Tower italiano saranno mandate oggi a tutti gli abbonati, il vostro va a Springfield, essendochè cosi' e' stato sotto scritto.

Liei sapere che state bene, rallegrandovi nel Signore. Percio' vi esortiamo piu' alla fedelta', crescendo in grazie ed in conosce di Dio.

Con amore fraterno a tutti voi, Siamo Vostri fratelli in Cristo.

WATCH TOWER B. & T. SOCIETY.

G. DeC.

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P. S. Il libro del sermone in pelle sara' mandato alla sorella Cuzzone non appena verranno in tela sono venuti ma non in pelle. Loordini e' stato gia' scritto da lungo tempo, ma si aspetta."

Schedule I1.

"January 21, 1918.

Dear Brother Nicita:

Your dear letter of the 16th instant has been received and am happy to have your news, and that you are happy in the Lord. I have written the order for the book of sermons for sister Rosina Cuzzone, the leather bound book. As soon as they arrive, it will be sent to her. At present, we haven't any tabernacle, but as soon as same arrives, it will be sent to her.

BSM, "the Fall of Babylon" is now in the press in the Italian language and we expect to have it written very soon. We have worked night and day to prepare it. We hope that all the Italian classes will make a large distribution as soon as it is written.

We salute affectionately, and we are your brothers in the Lord.

G. DE CECCA.

JH"

Schedule I2.

"February 15, 1918.

Dear Brother Nicita:

The objection in Italian also costs \$1.00 per annum, therefore if you want it we can send it to Italy. Of course, it costs us more, but we will also charge \$1.00 per year. It is necessary that we have the correct address, etc.

The address of brother Cuminetti is not a permanent one, but you can write him to the address of Sister Cerulli. Here it is: Mrs. Clara Cerulli, #7 Piazza Montebello, Piedmont, Pinerolo, Province of Turin, Italy.

The class at Calitri, Mr. Donato Gautiero of the late Vincent Province of Avelino, Calitri, Italy.

When you write to Calitri say to the class of the brothers at Calitri, brother Gautiero will reply to you by having a sister or a brother write you, because if he must write, I do not believe you would understand it at this age. He is very backward in his writing, but is full of faith, and it is he that has praised the Truth in Calitri. Can also send you "Heavenly Manna," but he advised that we only have a few copies, but think we can possibly send you one copy if you think it will do good, that is, if it will be profitable.

188

The Italian Watch Tower will be send today to all subscribers, yours is going to Springfield, as that is the address for the subscription.

I am glad that you are well and happy in the Lord and we exhort you more than ever in the Faith, increasing in the graces and knowledge of God.

With brotherly love to you all, we are

Your brothers in Christ,

WATCH TOWER B. & T. SOCIETY.

G. de C

P. S. The leather bound book will be sent to Sister Cuzzone as soon as they arrive. We have some that have reached us in cloth cover but not in leather. We sent in an order quite a while ago, but we are still waiting.

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JH"

2656

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

against

JOSEPH F. RUTHERFORD, WILLIAM E. VAN AMBURGH, ROBERT J. MARTIN, FREDERICK H. ROBISON, GEORGE H. FISHER, CLAYTON P. WOODWORTH, GIOVANNI DECECCA, ROBERT H. HIRSH and A. HUGH MACMILLAN.

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Indictment

Sections 3 and 4, Title I of the Act of June 15, 1917.

A true bill

192

Foreman Grand Jury: J. M. La France.
Melville J. France, United States Attorney, Eastern District of New York.

Filed May 6, 1918.

May 8, 1918.

Before Garvin, J. Defendants Rutherford, Van Amburgh, DeCecca, MacMillan, Martin and Robison arraigned, each pleads not guilty with leave to withdraw same and demur by May 15, 1918. Bail fixed at \$2,500 as to each of said defendants. Said defendants remanded to give bail and case adjourned to May 15, 1918.

May 9, 1918.

Before Garvin, J. Defendants Fisher and Woodworth arraigned. Each pleads not guilty, with leave to withdraw same and demur by May 15, 1918. Bail fixed at \$2,500 as to each of said defendants. Said defendants remanded to give bail. Case adjourned to May 15, 1918.

May 14, 1918.

Before Garvin, J. Defendant Hirsh arraigned and pleaded not guilty. Bail fixed at \$1,000. Case for call May 15, 1918. Nine recognizances filed (for all).

194

May 15, 1918.

Chatfield, J. All defendants present with counsel, except Hirsh. Case adjourned to June 3, 1918, for call. Defendants ordered to return on bonds at that time.

Before Garvin, J. Defendant Hirsh present. Ordered to return June 3, 1918, on his bond.

June 1, 1918.

Petitions of defendants and certificates of attorneys for designation of another judge filed. Certificate of Judge Garvin filed.

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June 3, 1918.

Before Garvin, J. Case called. Defendants present. Case referred to Judge Chatfield.

Before Chatfield, J. All defendants and counsel present. Defendants ordered to return on bonds June 4, 1918.

Endorsements on Indictment

June 4, 1918.

Before Chatfield, J. Case called. All defendants present. Defendants asked leave to withdraw their pleas and to demur. Case transferred to Judge Howe for hearing.

Before Howe, J. Case called. Defendants all present. Attorney for the United States moves to dismiss indictment as to the defendant Hirsh. Attorneys for other defendants object. Motion granted, and indictment dismissed as to Hirsh. Attorneys for other defendants ask leave to withdraw pleas and to demur. Attorney for the United States objects. Motion granted. Notice, affidavit and demurrer filed. Demurrer argued and decision reserved. Defendants' attorneys move for bill of particulars. Notice of motion and affidavit filed. Motion argued and granted as to the first and ninth requests and denied as to all others. Defendants' attorneys move to have certain papers taken under the search warrant returned. Notice and petition filed. Motion argued and denied in part. Demurrer overruled. Defendants, through their attorneys, entered a plea of not guilty. Attorneys for the United States moved for trial. Defendants' attorneys moved for adjournment and case set for trial at 2 P. M., June 5, 1918.

June 5, 1918.

Howe, J. All defendants and counsel, Jesse Fuller, Jr., and Frederick W. Sparks, present. Trial begun and adjourned to June 6, 1918, at 10:30 A. M. All defendants ordered to return on bonds at that time. Bill of particulars and notice and petition filed for return of papers. Motion denied.

June 6, 1918.

Before Howe, J. Trial resumed and suspended until June 7, 1918, at 10:30 A. M. Defendants ordered to return.

June 7, 1918.

Before Howe, J. Trial resumed and suspended until June 10, 1918, at 10:00 A. M. Defendants ordered to return.

June 10, 1918.

Before Howe, J. Trial resumed and suspended until June 11, 1918, at 10:00 A. M. Defendants ordered to return.

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June 11, 1918.

Before Howe, J. Trial resumed and suspended until June 12, 1918, at 10:00 A. M. Defendants ordered to return.

June 12, 1918.

Before Howe, J. Trial resumed and suspended until June 13, 1918, at 10:00 A. M. Defendants ordered to return.

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June 13, 1918.

Before Howe, J. Trial resumed and suspended until June 14, 1918, at 10:00 A. M. Defendants ordered to return.

June 14, 1918.

Before Howe, J. Trial resumed and suspended until June 17, 1918, at 10:00 A. M. Defendants ordered to return.

June 17, 1918.

Before Howe, J. Trial resumed and suspended until June 18, 1918. Defendants ordered to return.

June 18, 1918.

Before Howe, J. Trial resumed and suspended until June 19, 1918. Defendants ordered to return.

June 19, 1918.

Before Howe, J. Trial resumed and suspended until June 20, 1918. Defendants ordered to return.

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June 20, 1918.

Before Howe, J. Trial resumed and concluded; verdict guilty on all counts as against each defendant. Motion to set aside verdict and for a new trial. Defendants remanded until June 21, 1918, at 12 noon. Order entered for sustenance for jurors.

June 21, 1918.

Before Howe, J. Defendants present. Motions to set aside verdict and for a new trial and motions in arrest of judgment and motions to fix bail denied. United States Attorney moves sentence. Defendants Rutherford, Van Amburgh, Martin, Robison, Fisher, Woodworth and MacMillan each sentenced to be imprisoned for the term of twenty years in the United States Penitentiary at Atlanta, Ga., on each of four counts of the indictment, the sentence to commence and run concurrently, and that they stand committed until the sentence is complied with. Sentence of defendant DeCecca deferred until further consideration as the Court desires to have his past career investigated. June Term, 1918, extended for two months from this date. Appeal papers filed. Writs of commitment issued (7).

204

July 8, 1918.

Commitment of William F. Hudgings, a witness, for contempt filed *nunc pro tunc* as of June 11, 1918.

July 10, 1918.

Before Howe, J. Defendant DeCecca in court. Assistant U. S. Attorney Buchner moved sentence. Said defendant sentenced to be imprisoned for the term of ten years in the United States Penitentiary at Atlanta, Ga., on each of the four counts of the indictment, the sentence to commence and run concurrently. Motion for arrest of judgment, stay of sentence and to fix bail denied. June Term, 1918, extended ninety days from June 21, 1918, as to all defendants. Time to file amended assignments of error, return day of writ of error and citation extended ninety days from said date. Writ of commitment issued for DeCecca.

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July 21, 1918.

Writ of commitment returned and filed.

Sept. 18, 1918.

By Chatfield, J. Order extending time and term.

207

Oct. 10, 1918.

Writs of commitment (7) returned and filed.

Oct. 9, 1918.

Chatfield, J. On consent of U. S. Attorney time to file amended assignments of error and time to file return to writ of error and citation and June, 1918, Term is extended to November 6, 1918.

Oct. 15, 1918.

By Chatfield, J. Order entered extending June, 1918, Term, etc. Consent filed.

20

Endorsements on Indictment

Nov. 12, 1918.

Statement as to contempt of Hudgings filed by direction of Judge Howe.

Nov. 21, 1918.

Before Chatfield, J. Order entered extending time.

Dec. 10, 1918.

Before Chatfield, J. William F. Hudgings brought into court and by direction of Supreme Court of United States bail fixed at \$1,000 in contempt matter. Bail given. Recognizance filed. Matter adjourned to January 6, 1919.

Dec. 12, 1918.

Order of Supreme Court of the United States admitting Hudgings to bail filed.

Dec. 13, 1918.

By Chatfield, J. June Term, 1918, extended to and including January 31, 1919, in the matter of commitment of Hudgings for contempt.

Dec. 20, 1918.

210 Amended assignments of error filed as to defendants, except DeCicca.

Dec. 21, 1918.

Order filed and entered allowing writ of error. Writ of error issued and filed. Citation filed, order filed and entered extending June Term, 1918, to February 21, 1919. Order filed and entered extending time to file returns, etc., to January 20, 1919.

Jan. 6, 1919.

Before Chatfield, J. In the matter of Hudgings' contempt. Hudgings present. Ordered to return February 3, 1919. June Term, 1918, extended to February 3, 1919.

Feb. 3, 1919.

Before Chatfield, J. In the matter of Hudgings' contempt. Hudgings present. Ordered to return March 5, 1919, or sooner if ordered. June Term extended to March 5, 1919.

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Mar. 5, 1919.

Before Chatfield, J. In the matter of Hudgings' contempt. Defendant present and ordered to return on May 12, 1919. June Term, 1918, extended to that date.

Mar. 20, 1919.

By Howe, J. Order filed and entered extending Term, etc.

Mar. 26, 1919.

Bill of exceptions in three volumes filed.

Before Chatfield, J. Defendants brought into court, court to give bail. Bonds executed before the Judge returnable June 4, 1919. Copy of order and eight bonds filed.

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UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

vs.

JOSEPH F. RUTHERFORD, WILLIAM E. VAN AMBURGH, ROBERT J. MARTIN, FREDERICK H. ROBISON, GEORGE H. FISHER, CLAYTON J. WOODWORTH, A. HUGH McMILLAN and GIOVANNI DE-CECCA,

Defendants.

The said defendants, Joseph F. Rutherford, William E. Van Amburgh, Robert J. Martin, Frederick H. Robison, George H. Fisher, Clayton J. Woodworth, A. Hugh McMillan and Giovanni DeCecca, by Sparks, Fuller & Stricker, their attorneys, come into court and say that the said indictment heretofore filed herein, and the matters and things therein set forth are, as therein alleged and set forth, not sufficient in law to compel them, the said defendants, or any of them, to answer thereto, for that

FIRST: The said indictment therein and in the first count thereof is defective for uncertainty and indefiniteness and in that there is nowhere set forth or charged any day or date, or specified time on which was committed or done or caused to be done, the offense therein attempted to be charged, or any act comprising or constituting said offense or any part thereof, or any of the acts through or by which said

offense is charged to have been committed, or on which the said defendants did combine, confederate, or agree together to commit said offense or any part thereof or did do or perform or cause to be done or performed any matter, act or thing toward the creation, formation or consummation of any such conspiracy, combination, confederacy, or agreement as therein alleged, or on which they, the defendants, or any of them did do or cause to be done any of the things or acts set forth or alleged in said indictment and in the first count thereof, as overt acts, alleged to have been committed or caused to have been committed for the purpose of affecting the object of the said alleged conspiracy, and therefore, and furthermore, that it does not appear from the allegations of said indictment and the first count thereof, that the matters, things and acts therein charged to have been done or committed or caused to be done, were done or committed or caused to be done at a time when the doing or committing thereof or the causing thereof to be done was a violation of any law or was unlawful and this the said defendants and each of them is ready to verify.

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SECOND: The said indictment therein and in the second count thereof is defective for uncertainty and indefiniteness and in that there is nowhere set forth or charged any day or date, or specified time on which was committed or done or caused to be done, the offense therein attempted to be charged, or any act comprising or constituting said offense or any part thereof, or any of the acts through or by which said offense is charged to have been committed, or on which the said defendants did combine, confederate, or agree together to commit said offense or any part thereof, or did do or perform or cause to

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be done or performed any matter, act or thing toward the creation, formation or consummation of any such conspiracy, combination, confederacy or agreement as therein alleged or on which they, the defendants, or any of them did do or cause to be done any of the things or acts set forth or alleged in said indictment and in the second count thereof, as overt acts, alleged to have been committed or caused to have been committed for the purpose of affecting the object of the said alleged conspiracy, and therefore, and furthermore, that it does not appear from the allegations of said indictment and the second count thereof, that the matters, things and acts therein charged to have been done or committed or caused to be done, were done or committed or caused to be done at a time when the doing or committing thereof or the causing thereof to be done was a violation of any law or was unlawful and this the said defendants and each of them is ready to verify.

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THIRD: The said indictment therein and in the third count thereof is defective for uncertainty and indefiniteness and in that there is nowhere set forth or charged any day or date, or specified time on which was committed or done or caused to be done, the offense therein attempted to be charged, or any act comprising or constituting said offense or any part thereof, or any of the acts through or by which said offense is charged to have been committed, and therefore and furthermore, that it does not appear from the allegations of said indictment and the third count thereof that the matters, things, and acts therein charged to have been done or committed or caused to be done, were done or committed or caused to be done at a time when the doing or committing thereof or the causing thereof to be done was a violation of any law or was unlawful and this the said defendants, and each of them, is ready to verify.

FOURTH: The said indictment therein and in the fourth count thereof is defective for uncertainty and indefiniteness and in that there is nowhere set forth or charged any day or date, or specified time on which was committed or done, or caused to be done, the offense therein attempted to be charged, or any act comprising or constituting said offense or any part thereof, or any of the acts through or by which said offense is charged to have been committed, and therefore and furthermore, that it does not appear from the allegations of said indictment and the fourth count thereof, that the matters, things and acts therein charged to have been done or committed or caused to be done, were done or committed or caused to be done at a time when the doing or committing thereof or the causing thereof to be done was a violation of any law or was unlawful and this the said defendants, and each of them is ready to verify.

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FIFTH: The said indictment in the third count thereof, is defective in that the offense therein charged is several and distinct in its nature; is comprised of and is charged to have been committed through and by means of separate and distinct acts which could not have been committed by all of the defendants jointly and which are not charged to have been committed by said defendants jointly.

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SIXTH: The said indictment in the fourth count thereof, is defective in that the offense therein charged is several and distinct in its nature; is comprised of and is charged to have been committed through and by means of separate and distinct acts which could not have been committed by all of the defendants jointly and which are not charged to have been committed by said defendants jointly.

226 *Notice of Motion for Bill of Particulars*

Wherefore, these defendants and each of them, prays judgment and that he may be dismissed and discharged of said indictment.

SPARKS, FULLER & STRICKER,
Attorneys for Defendants,
Office & P. O. Address,
44 Court Street,
Borough of Brooklyn,
City of New York.

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Notice of Motion for Bill of Particulars.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

vs.

228 JOSEPH F. RUTHERFORD, WILLIAM E. VAN AMBURGH, ROBERT J. MARTIN, FREDERICK H. ROBISON, GEORGE H. FISHER, CLAYTON J. WOODWORTH, A. HUGH McMILLAN and GIOVANNI DE-CECCA,

Defendants.

Sir:

Please take notice that upon the indictment herein, and the annexed affidavit of Jesse Fuller, Jr., we shall move this court, at a term thereof, held in and for

Notice of Motion for Bill of Particulars

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the Eastern District of New York, before the Hon. Thomas I. Chatfield, on the 4th day of June, 1918, at the opening of court on that day, or as soon thereafter as counsel can be heard, for an order directing the United States of America to furnish a bill of particulars setting forth the following information:

1. On what date the United States of America claim that the defendants unlawfully and feloniously did conspire, combine, confederate and agree together to commit the offense stated in the first count of said indictment.

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2. Upon what date or dates and who, the defendants in, through and by personal solicitations, unlawfully, feloniously and wilfully caused insubordination, disloyalty and refusal of duty in the military and naval forces of the United States of America when the United States was at war.

3. To whom and on what dates the defendants sent the letters described in the first count of the indictment.

4. The dates when and where the defendants made the public speeches set forth in the first count of said indictment.

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5. The dates and the persons to whom defendants distributed and publicly circulated the book called, "Volume VII. Bible Studies. The Finished Mystery" as related in the first count of the indictment.

6. To whom and on what dates the defendants distributed and publicly circulated pamphlets called "Bible Student's Monthly," "Watch Tower," "Kingdom News," and the dates of the issues thereof, if dated.

7. Also on what date the defendants did compile and cause to be compiled certain reports and when

and what original writings which the United States of America claim were added to certain original writings of "Volume VII. Bible Studies. The Finished Mystery" were added and what the United States of America claim are original writings and whether each and what defendants did the acts described in paragraph marked "I" of the overt acts under count one.

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8. Also on what date the United States of America claim the defendants did distribute and cause to be distributed to Jerry DeCecca and one Carmelo Nicita, "Volume VII. Bible Studies. The Finished Mystery," and to what other persons the United States of America claim defendants distributed "Volume VII. Bible Studies. The Finished Mystery," and on what dates as alleged in paragraph marked "3," of the overt acts under count one.

9. On what date the defendants unlawfully, feloniously and wilfully obstructed the recruiting and enlisting service of the United States stated in the second count of said indictment.

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10. Upon what date or dates the defendants in, through and by personal solicitations throughout the United States, unlawfully, feloniously and wilfully caused insubordination, disloyalty and refusal of duty in the military and naval forces of the United States of America when the United States was at war.

11. To whom and on what dates the defendants sent the letters described in the Second Count of the indictment.

12. The dates when the defendants made the public speeches set forth in the Second Count of said indictment.

13. The dates and the persons to whom defendants distributed and publicly circulated the book called

"Volume VII. Bible Studies. The Finished Mystery" as related in the Second Count of the indictment.

14. To whom and on what dates the defendants distributed and publicly circulated pamphlets called "Bible Student's Monthly," "Watch Tower," "Kingdom News" and the dates of the issues thereof, if dated.

15. Also on what date the defendants did compile and cause to be compiled certain reports and when and what original writings which the United States of America claim were added to certain original writings of "Volume VII. Bible Studies. The Finished Mystery" were so added and what part thereof the United States of America claim are original writings and whether each and what defendants did the acts described in paragraph marked "1." of the Overt Acts under Count Two.

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16. Also on what date the United States of America claim the defendants did distribute and cause to be distributed to Jerry de Cecca and one Carmelo Nicita, "Volume VII. Bible Studies. The Finished Mystery" and to what other persons the United States of America claim defendants distributed "Volume VII. Bible Studies. The Finished Mystery" and on what dates as set forth in paragraph marked "3." of the Overt Acts under Count Two.

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17. On what date or dates defendants did unlawfully, wilfully and feloniously attempt to cause insubordination, disloyalty, mutiny and refusal of duty in military and naval service of the United States, when the United States was at war, and the person or persons whom defendants did unlawfully, wilfully and feloniously attempt to cause to be insubordinate, dis-

loyal, or to refuse to do service in the military or naval service of the United States, while the United States was at war, in, through and by means of personal solicitations, letters, public speeches and a certain book called "Volume VII. Bible Studies. The Finished Mystery," and the person or persons whom defendants personally solicited, the names of the persons to whom the letters were written, and the dates thereof, and the place and dates on which public speeches were made, as set forth in the third count of the indictment herein; the dates of the "Bible Students Monthly," "The Watch Tower," "Kingdom News" and the other pamphlets not bearing any title, which the United States of America claims the defendants mailed in their efforts to cause insubordination, disloyalty and mutiny and refusal of duty in the military and naval service of the United States, when the United States was at war, and which the United States of America designates as Schedules "B," "C," "D," "E," "F," "G," "H" and "I" in the third count of the indictment herein, and what other writings and publications, together with the dates thereof, the Government of the United States of America claims the defendants published, circulated and distributed in and about the Borough of Brooklyn, County of Kings, State and Eastern District of New York, to various persons, as alleged in the third count of the indictment

18. On what date or dates defendants did unlawfully, wilfully and feloniously obstruct the recruiting and enlistment service of the United States to the injury of the service of the United States of America, when the United States was at war, and the person or persons whom defendants did unlawfully, wilfully and feloniously cause to obstruct the recruiting and enlistment service of the United States, while the United States was at war, in, through and by means of

personal solicitations, letters, public speeches and a certain book called "Volume VII. Bible Studies. The Finished Mystery," and the person or persons whom defendants personally solicited, the names of the persons to whom the letters were written, and the dates thereof, and the place and dates on which public speeches were made, as set forth in the fourth count of the indictment herein; the dates of the "Bible Student's Monthly," "The Watch Tower," "Kingdom News" and the other pamphlets not bearing any title, which the United States of America claims the defendants mailed in their efforts to obstruct the recruiting and enlistment service of the United States, when the United States was at war, and which the United States of America designates as Schedules B, C, D, E, F, G, H and I in the fourth count of the indictment herein, and what other writings and publications, together with the dates thereof, the Government of the United States of America claims the defendants published, circulated and distributed in and about the Borough of Brooklyn, County of Kings, State and Eastern District of New York, to various persons, as alleged in the fourth count of the indictment.

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Dated, June 3rd, 1918.

243

Yours, etc.,

SPARKS, FULLER & STRICKER,

Attorneys for Defendants,

Office and P. O. Address,

44 Court Street,

Borough of Brooklyn,

City of New York.

To:

Melville J. France, Esq.,

United States District Attorney for the

Eastern District of New York,

Post Office Building,

Brooklyn, New York.

244 **Affidavit on Motion for Bill of Particulars.**

UNITED STATES DISTRICT COURT,
FOR THE EASTERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

vs.

245 JOSEPH F. RUTHERFORD, WILLIAM
E. VAN AMBURGH, ROBERT J.
MARTIN, FREDERICK H. ROBI-
SON, GEORGE H. FISHER, CLAY-
TON J. WOODWORTH, A. HUGH
McMILLAN and GIOVANNI DE-
CECCA,

Defendants.

State of New York, }
City of New York, } ss:
County of Kings, }

Jesse Fuller, Jr., being duly sworn, deposes and says: That he is one of the attorneys for the defendants herein.

246 That since the 8th day of May, 1918, when the defendants were arraigned and pleaded not guilty to the charges contained in said indictment, Frederick W. Sparks associated with deponent in representing the defendants herein, and since the 16th day of May, 1918, your deponent, who returned to his office on said day after an absence from the City and State of about two weeks, have continuously devoted practically their entire time to reading the vast amount of printed or written matter charged in said indictment, as having been employed as the means for the commission of said offense, alleged in the third and fourth counts

of said indictment, and as Overt Acts in pursuance of the conspiracy alleged in the first and second counts of said indictment, in interviewing the various defendants named in said indictment, in obtaining information as to the conduct of the various defendants during the period from April 6, 1917, to May 6, 1918, fixed in the indictment as that during which the offenses charged were committed, and in preparing various papers, affidavits and in taking various steps all needful to the adequate preparation of the defense of said defendants against the charges set forth in said indictment.

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That in the course of the preparation by deponent and said Frederick W. Sparks of the defense of said defendants to the charges contained in said indictment, it has become apparent to deponent and said Frederick W. Sparks that defendants cannot safely go to trial in this case without obtaining a bill of particulars setting forth the facts and dates set forth in the notice of motion herein, said indictment being so indefinite with respect to the alleged wrongful acts of defendants that they cannot properly prepare to meet any specific allegation which the Government may attempt to prove. That said indictment is so indefinite and vague that deponent and said Frederick W. Sparks deem said indictment demurrable, and have heretofore, on this date, served a notice of motion to withdraw the plea entered herein with leave to demur to said indictment, and while deponent believes that upon the hearing and determination of said demurrer the indictment will be dismissed, they cannot safely permit the defendants to go to trial herein in the event that said demurrer is overruled, without having the information demanded in the within notice of motion.

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250

Affidavit on Motion for Bill of Particulars

That this motion is not made for the purpose of delaying the trial of this cause. It is made solely for the purpose of insuring that the defendants will be accorded a fair trial and know when they go to trial what specific unlawful acts they are charged with having committed and the time said alleged unlawful acts are claimed to have been committed, which facts the indictment herein wholly fails to give defendants.

JESSE FULLER, JR.

Sworn to before me this
3rd day of June, 1918.

251

P. V. Manning,
Kings Co.
Notary Public,

(Seal.)

252

Bill of Particulars.

253

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

against

JOSEPH F. RUTHERFORD and
others.

Sirs:

254

Please take notice that the following is the bill of particulars in accordance with paragraphs 1 and 9 of the motion for a bill of particulars herein, and as required by the order of the Court of June 4, 1918.

First: June 16, 1917, and continuously thereafter up to and including the sixth day of May, nineteen hundred and eighteen.

Second: June 16, 1917, and continuously thereafter up to and including the sixth day of May, nineteen hundred and eighteen.

Dated, June 5th, 1918.

255

Yours, &c.,

MELVILLE J. FRANCE,

United States Attorney for the

Eastern District of New York,

Post Office Building,

Brooklyn, N. Y.

To:

Messrs. Sparks, Fuller & Stricker,

44 Court Street,

Brooklyn, N. Y.

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Notice of Motion for Return of Papers.

UNITED STATES DISTRICT COURT,

FOR THE EASTERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

vs.

JOSEPH F. RUTHERFORD, WILLIAM
E. VAN AMBURGH, ROBERT J.
MARTIN, FREDERICK H. ROBI-
SON, GEORGE H. FISHER, CLAY-
TON J. WOODWORTH, A. HUGH
McMILLAN and GIOVANNI DE-
CECCA,

Defendants.

257

Sir:

258

Please take notice that upon the annexed petition of Clayton J. Woodworth, verified the 5th day of June, 1918, we shall move this Court, at a term thereof, held in and for the Eastern District of New York, at the Post Office Building in the Borough of Brooklyn, City of New York, before the Hon. Charles M. Hough, on the 5th day of June, 1918, at 2:00 P. M., or as soon thereafter as counsel can be heard, for an order directing Melville J. France, United States District Attorney for the Eastern District of New York, or any other person in whose possession the same may be, to return to Clayton J. Woodworth two certain letters, one dated December 7, 1917, addressed to your petitioner at 432 Bloom Street, Scranton, Pa., and signed "J. F. Rutherford," the other dated "Los Angeles, Cal., February 21, 1918, addressed to your petitioner at 432 Bloom Street, Scranton, Pa., and signed "J. F. Rutherford," and such copies thereof as said Melville J. France may have, together with any

other papers now in his possession taken from your petitioner's home and possession; and for such other and further relief as may be just and proper.

Dated, June 5th, 1918.

Yours, etc.,

SPARKS, FULLER & STRICKER,

Attorneys for Defendants,

Office & P. O. Address,

44 Court Street,

Borough of Brooklyn,

City of New York.

To:

Melville J. France, Esq.,

United States District Attorney for the

Eastern District of New York,

Post Office Building,

Brooklyn, New York.

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**Petition of Defendant, Woodworth,
for Return of Papers.**

UNITED STATES DISTRICT COURT,

FOR THE EASTERN DISTRICT OF NEW YORK.

261

UNITED STATES OF AMERICA

vs.

JOSEPH F. RUTHERFORD, *et al.*,
Defendants.

At a Stated Term of the District Court of the United States of America, for the Eastern District of New York.

To the Judge of the United States District Court for the Eastern District of New York:

The petition of Clayton J. Woodworth respectfully shows to this Court:

That your petitioner is one of the defendants in the above-entitled cause and is a citizen of the State of Pennsylvania, and resides at 432 Bloom Street, Scranton, Pa.

263

That on or about the 25th day of March, 1918, four persons: Messrs. McHenry, Magee, Zeidler and a fourth person whose name petitioner cannot now recall, called at petitioner's office, No. 338 Madison Avenue, Scranton, Pa., and said McHenry entered the same and notified petitioner that he had a search warrant under which he intended to search petitioner's house. That thereupon petitioner went with said McHenry and the other persons, to the home of petitioner at 432 Bloom Street, said McHenry meantime showing petitioner, upon petitioner's demand, a paper purporting to be a search warrant, no copy of which, however, was delivered to petitioner. At petitioner's home, said persons seized and carried away three copies of the book known as "The Finished Mystery," and four letter files, giving petitioner a receipt for the said three books and for four letter files, which receipt did not specify any of the contents of said files. That said files contained letters and documents which were the property of petitioner and included all of deponent's correspondence for about twenty-five years that he had retained in his possession and were taken from petitioner's possession without any authority or warrant in law, with the exception of said alleged search warrant.

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That one of said files was subsequently returned to your petitioner but the remaining three of said files have never since been returned to your petitioner,

nor does he now know where the same are. That said three files so taken from and never since returned to your petitioner, contained among others, two certain letters, one dated December 7, 1917, addressed to your petitioner at 432 Bloom Street, Scranton, Pa., and signed "J. F. Rutherford," the other dated "Los Angeles, Cal., February 21, 1918," addressed to your petitioner at 432 Bloom Street, Scranton, Pa., and signed "J. F. Rutherford," the balance of said papers so taken being unknown to your petitioner for the reason that said person or persons so entering his home, gave your petitioner no receipt or schedule of the said papers taken by them.

266

That said Melville J. France, United States District Attorney for the Eastern District of New York, now has the letters aforesaid so taken from your petitioner's possession, which he has failed to return to your petitioner, and said letters are now being held by him, and were taken from petitioner in violation of the fourth and fifth amendments of the Constitution of the United States, and the retention of said papers by said District Attorney, are unlawful and improper and in violation of the rights of your petitioner under the Constitution of the United States.

That since the seizure of said papers and letters, as hereinabove stated, your petitioner has been indicted by the United States Grand Jury, with divers other persons, to wit: Joseph F. Rutherford, William E. Van Amburgh, Robert J. Martin, Frederick H. Robinson, George H. Fisher, A. Hugh McMillan and Giovanni DeCecca, upon the charge of having unlawfully, conspired together to cause insubordination in the military and naval forces of the United States and upon the further charge of having unlawfully conspired together for the purpose of wilfully obstructing the recruiting and enlistment service of the United States,

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and on the further charge of having wilfully and unlawfully attempted to cause insubordination in the military and naval service of the United States, and on the further charge of having unlawfully obstructed the recruiting and enlistment service of the United States by means of various writings, publications and letters, which writings, publications and letters include the two letters hereinbefore specified and described so unlawfully seized and taken from your petitioner's possession and now in the possession of and retained by said Melville J. France, District Attorney of the United States District Court for the Eastern District of New York, and said District Attorney purposes to use, and has so stated that he will use, said two letters, both addressed to your petitioner and signed "J. E. Rutherford," one dated December 7, 1917, the other dated February 21, 1918, hereinbefore described, so unlawfully seized and retained, and now unlawfully in the possession of said District Attorney, at the trial of the above-entitled cause, for the purpose of attempting to establish your petitioner's guilt of crime to set forth in the various counts of the indictment herein, and that by reason thereof and on the facts herein set forth, petitioner's rights as a defendant herein, under the fourth and fifth amendments of the Constitution of the United States, have been and will be violated unless the Court orders the return of said letters hereby prayed for.

That the reason this petition was not earlier made to this Court, is that the said indictment does not mention any of the letters taken from the possession of your petitioner as hereinabove stated and petitioner had no knowledge that any of said letters were in the possession of the said District Attorney, Melville J. France, until after 8 o'clock on the evening of June 4, 1918, when your petitioner was apprised by said

Petition of Defendant Woodworth

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Melville J. France, District Attorney, of his intention to use the two letters hereinabove described, the one dated December 7, 1917, the other dated February 21, 1918, on the trial of this cause, and that said District Attorney had said two letters in his possession and was retaining them for the purpose of so using them, and this petition is prepared at the earliest possible moment after your petitioner was so apprised.

Wherefore, petitioner prays that said Melville J. France, United States District Attorney for the Eastern District of New York; or any other person in whose possession the same may be, return said two letters, one dated December 7, 1917, addressed to your petitioner at 432 Bloom Street, Scranton, Pa., and signed "J. F. Rutherford," the other dated "Los Angeles, Cal., February 21, 1918," addressed to your petitioner at 432 Bloom Street, Scranton, Pa., and signed "J. F. Rutherford," and such copies thereof as said Melville J. France may have, together with any other papers now in his possession, so taken from your petitioner's home and possession, to your petitioner, said defendant in said cause, and that an order be entered herein accordingly and that your petitioner have such other and further relief as may be just and proper.

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Dated, June 5th, 1918.

CLAYTON J. WOODWORTH,
Petitioner.

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Petition of Defendant Woodworth

State of New York,
 City of New York, } ss:
 County of Kings, }

Clayton J. Woodworth, being first duly sworn on oath says:

275

That he is the person whose name is subscribed to the foregoing petition; that he is familiar with the contents of said petition and that the matters and things therein contained are true in substance and in fact, except such matters and things as are set forth on information and belief, and as to such matters affiant verily believes it to be true.

CLAYTON J. WOODWORTH.

Sworn to before me this
 5th day of June, 1918.

Eugene Sherk,
 Notary Public,
 Kings Co.

(Seal.)

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Notice of Motion for Return of Papers.

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UNITED STATES DISTRICT COURT,

FOR THE EASTERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

vs.

**JOSEPH F. RUTHERFORD, WILLIAM
E. VAN AMBURGH, ROBERT J.
MARTIN, FREDERICK H. ROBI-
SON, GEORGE H. FISHER, CLAY-
TON J. WOODWORTH, A. HUGH
McMILLAN and GIOVANNI DE-
CECCA,**

Defendants.

278

Sir:

Please take notice that on the annexed petition of Joseph F. Rutherford, verified the 3rd day of June, 1918, we shall move this Court, at a term thereof, held in and for the Eastern District of New York, before the Hon. Thomas I. Chatfield, on the 4th day of June, 1918, at the opening of court on that day, or as soon thereafter as counsel can be heard, for an order directing Melville J. France, United States District Attorney for the Eastern District of New York, Percy Gilkes, Clerk of said United States District Court for the Eastern District of New York, Richard M. Cahoone, United States Commissioner for the Eastern District of New York, and Clarence L. Converse from 13 Hicks Street, Brooklyn, New York, or any other person in whose possession the same may be, to return to Joseph F. Rutherford, all papers and books in the possession or under the control of them

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Notice of Motion

or any of them taken by Clarence L. Converse from Frederick H. Robison, on or about the 1st day of March, 1918, and all papers contained in a certain file known as a "Military File" by said Clarence L. Converse from 13 Hicks Street, Brooklyn, New York, on or about February 27, 1918; and for such other and further relief as may be just and proper.

Dated, June 3rd, 1918.

Yours, etc.,

SPARKS, FULLER & STRICKER,

Attorneys for Defendants,

Office & P. O. Address,

44 Court Street,

Borough of Brooklyn,

City of New York.

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To:

Melville J. France, Esq.,

United States District Attorney for the

Eastern District of New York,

Post Office Building,

Brooklyn, N. Y.

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**Petition of Defendant, Rutherford,
for Return of Papers.** 283

UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

vs.

JOSEPH F. RUTHERFORD, WIL-
LIAM E. VAN AMBURGH, ROB-
ERT J. MARTIN, FREDERICK
H. ROBISON, GEORGE H. FISHER,
CLAYTON J. WOODWORTH,
A. HUGH McMILLAN and
GIOVANNI DECECCA,
Defendants.

284.

At a Stated Term of the District Court of the
United States of America, for the Eastern District of
New York.

TO THE JUDGE OF THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT OF NEW YORK:

The petition of Joseph F. Rutherford respectfully
shows to this Court: 285

That your petitioner is one of the defendants in
the above entitled cause and is a citizen of the State of
New York, and resides at No. 122 Columbia Heights,
Brooklyn, New York. Upon information and belief:
That on the 1st day of March, 1918, while petitioner
was absent from the city, one Clarence L. Converse,
an officer of the United States Government and cer-
tain other officers of said government, whose names
are unknown to petitioner, unlawfully entered peti-
tioner's home and seized all of his papers then in the

Petition of Defendant Rutherford

care and under the custody of one Frederick H. Robinson, without warrant or authority so to do, except a certain paper issued by the United States Commissioner Richard M. Cahoon, purporting to be a search warrant, copy of which paper is as follows:

"United States of America,
Eastern District of New York, } ss:

"To Clarence L. Converse, Bureau of Military Intelligence, War Department, New York, N. Y.

287 "Whereas, complaint on oath and in writing, has this day been made before me, Richard M. Cahoon, a United States Commissioner for the said District, by Clarence L. Converse, alleging that he has reason to believe, and that he does believe that certain papers were used as a means of committing a felony, to wit: certain papers and printed matter in the possession of the Watch Tower Bible & Tract Society and The Peoples Pulpit Association and in the possession of Joseph B. Rutherford, President of the Watch Tower Bible & Tract Society, and Robert J. Martin, Manager, at #122 Columbia Heights and #13 to 17 Hicks Street, Borough of Brooklyn, City, State and Eastern District of New York, showing their connection with German Agents in the United States of America and Mexico, and that this property was used as a means of committing a felony, to wit: propaganda directed against the United States of America and its Allies in the waging of war, and while the United States was at war, wilfully caused or attempted to cause insubordination, disloyalty, mutiny or refusal of duty in the military and naval forces of the United States and wilfully obstructed the recruiting or enlistment services of the United States and conspired to effect such object and that the above named persons

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have at the address above stated, therefore, knowingly and wilfully had possession of and control over property and papers designed and intended to use in violating the Sections of the Act of June 15, 1917, known as Section 2, Title 12, Section 3 of Title 12, Sections 3 and 4 of Title 1 of such Act. The said Act approved June 15, 1917, known as the Espionage Act.

"You are hereby commanded, in the name of the President of the United States, to enter said premises, with the necessary and proper assistance, and there diligently to investigate and search into and concerning said violation of the Act of Congress approved June 15, 1917, known as the Espionage Act and to report and act concerning the same as required of you by law.

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"Given under my hand and seal on this 25th day of February, 1918.

• "(Signed) RICHARD M. CAHOONE,
"United States Commissioner as aforesaid.

"(Seal)

"United States of America,
Eastern District of New York, } ss:

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"Be it remembered that this day before me, the undersigned, a United States Commissioner for the Eastern District of New York, came Clarence L. Converse, being by me duly sworn, deposes and says that he has good reason to believe and does verily believe, that there is in the possession of the Watch Tower Bible & Tract Society and The Peoples Pulpit Association, and in the possession of Joseph B. Rutherford, President of the Watch Tower Bible & Tract Society, and Robert J. Martin, Manager, at

Petition of Defendant Rutherford

#122 Columbia Heights and #13 to 17 Hicks Street, Borough of Brooklyn, City, State and Eastern District of New York, certain papers and printed matter showing their connection with German agents in the United States and Mexico, and that this property was used as a means of committing a Felony to wit: propaganda directed against the United States of America and its Allies in the waging of war, and while the United States was at war, wilfully caused or attempted to cause insubordination, disloyalty, mutiny or refusal of duty in the military and naval forces of the United States and wilfully obstructed the recruiting or enlistment services of the United States and conspired to effect such object and that the above named persons have at the address above stated, therefore, knowingly and wilfully had possession of and control over property and papers designed and intended for use in violating the sections of the Act of June 15, 1917, known as Section 2, Title 12, Section 3 of Title 12, Sections 3 and 4 of Title of such Act. The said Act approved June 15, 1917, known as the Espionage Act.

293 “(Signed) CLARENCE L. CONVERSE.

294 “Sworn to before me, and subscribed in my presence this 27th day of February, 1918.

 “(Signed) RICHARD M. CAHOONE,

 “United States Commissioner
as aforesaid.

“(Seal)”

Upon information and belief:

That the papers taken on said day by said Clarence L. Converse, numbered about three hundred letters and copies of letters, some addressed to your petitioner, some addressed to the Watch Tower Bible & Tract Society, some addressed to the International

Bible Students Association, of both of which organizations your petitioner is the president and executive head, and some of which being copies of letters written by Frederick H. Robison, all of which papers were then in the custody and care of said Frederick H. Robison, who was then acting as assistant to petitioner in caring for said correspondence and letters, both with respect to letters addressed to said organizations and also with respect to letters addressed to petitioner.

Upon information and belief:

That on the 27th day of February, 1918, said Clarence L. Converse also appeared with said paper, purporting to be a search warrant, at 13 Hicks Street, Brooklyn, New York, the business office of the Watch Tower Bible & Tract Society and Peoples Pulpit Association, of both of which organizations petitioner is president and executive head, and demanded and obtained various letters and correspondence, and among which was a certain file of letters, then under the care and custody of said Frederick H. Robison, as petitioner's assistant, known as the Military File, and containing a large number of letters written to petitioner by divers persons. That said file of letters was delivered to said Clarence L. Converse and others at 13 Hicks Street, upon their demand made pursuant to said alleged search warrant. Said letters had been taken from petitioner's said residence at 122 Columbia Heights by said William E. Van Amburgh, carried to 13 Hicks Street and there delivered to said Clarence L. Converse and others by and in pursuance of the demand made by said Clarence L. Converse and others pursuant to the alleged authority of said search warrant.

Upon information and belief:

That on both of said occasions and in violation of Section 12 of Title XI of the Espionage Act and at

the time of the taking of said property hereinbefore described, said Clarence L. Converse and others refused to give any receipt for the same to the person or persons from whom it was taken or in whose possession it was found, and the only receipt ever given by said Converse for said property and for certain other property consisting of day books, check books, check stubs, books of account, various other letters and copies of letters, the total amount of letters being thus taken numbering thousands, was the following:

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"The following articles were taken from what is known as the Bethel House, 122 Columbia Heights, Brooklyn, N. Y., on March 6th, 1918:

"1 bundle of letter files (Mr. Rutherford, President), 1 wireless outfit with sender and receiver parts.

"I, Clarence L. Converse, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me on the warrant.

"C. L. CONVERSE.

"List of articles received from the Watch Tower Publishing Co. & International Bible Students Ass'n. 13-17 Hicks Street, Brooklyn, N. Y., Feb. 27/18:

300

"27 letter files (boxes)

1 wire basket of letters

2 Directors Minute Books

1 Annual Report Book

1 Peoples Pulpit Ass'n Book

1 Special Temporary Account Book

1 Trial Balance Book

4 Ledgers

3 Check Books

29 Copies of Different Pamphlets

2 Bundles of Italian Files

1 Bundle of German Files

Petition of Defendant Rutherford

301

7 Books of Dr. Russell's Works

7 Books of Various Authors.

"I, Clarence L. Converse, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me on the warrant.

"CLARENCE L. CONVERSE."

That thereafter and on or about the 16th day of March, 1918, petitioner received through the post the following notice:

"8406

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"Office of
MILITARY INTELLIGENCE

Room No. 806

302 Broadway

New York City

"Registered.

"March 15, 1918.

"International Bible Students Association,

Joseph F. Rutherford, Esq.,

Mr. Martin,

17 Hicks Street,

Brooklyn, N. Y.

"Gentlemen:

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"You are hereby informed that a hearing, in relation to the search warrant recently addressed to you, will be held before the United States Commissioner, Richard M. Cahoon, Esq., on March 21st, at 2 P. M., in Room 205, Post Office Building, Brooklyn, for the purpose of considering the further extension of said search warrant and other questions in relation thereto.

"Truly yours,

(signed) NICHOLAS BI * * *

(Remainder of name illegible.)

Major, N. A. In Charge.

"JBR/ES"

Petition of Defendant Rutherford

Thereafter and on March 21, 1918, at 2 o'clock in the afternoon of said day petitioner appeared before United States Commissioner Richard M. Cahoone, at his office in the Post Office Building, Brooklyn, New York, and demanded the return of said letters and correspondence which were the property of petitioner and said demand was refused by said commissioner, whereupon a hearing was had which continued thereafter on March 22, 29, April 5, 12, 15, 23, May 7, 21, 28, on which last date, May 28, petitioner was not present and has been advised that his default was noted, which hearings have never yet been terminated and are still in progress, the purpose of which hearings, as petitioner understands the same, has been the determination of what papers, if any, of those taken, the said Clarence L. Converse or Melville J. France, U. S. District Attorney for the Eastern District of New York, or the Clerk of this Court, is authorized and empowered to hold, and which of said papers said persons are not authorized and empowered to hold, and must be returned to petitioner or to the persons or organizations from whom the same have been taken.

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That during the progress of said hearings the following papers and books of account have been returned to the persons from whom the same were taken:

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Three ledgers, two cash books, two check books, one book of check stubs, and one small memorandum book of old records.

Upon information and belief:

That the District Attorney, the United States Marshal, and the Clerk of the United States Court for the Eastern District of New York, still have in their possession of the property so seized which they have

failed and refused to return to defendant, all of the correspondence taken from said Frederick H. Robison on said February 27, 1918, and all of the contents of said military file taken on said February 27, 1918, as above set forth.

That said property was seized and is now being held in violation of the 4th and 5th amendments of the Constitution of the United States, and also in violation of the provisions of Section 12 of Title XI of the Espionage Act, and the seizure and retention of said property by said District Attorney, said United States Marshal and said Clerk are unlawful and improper and in violation of the rights of your petitioner under the Constitution of the United States.

308

That on the hearing before said United States Commissioner Cahoon under said search warrant, your petitioner, through his attorneys, demanded that there be returned to him and to the persons from whose possession they were taken, all of the papers and books which were taken under the authority of the said search warrant, upon the ground that said search warrant was illegal and in violation of the rights of the persons from whose possession they were taken, as guaranteed by amendments 4 and 5 of the Constitution of the United States of America, and that said Commissioner Cahoon refused to direct that the same be returned.

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That since the seizure of said correspondence and papers, as hereinabove stated, your petitioner has been indicted by the United States Grand Jury for the Eastern District of New York with divers other persons, to wit, William E. Van Amburgh, Robert J. Martin, Frederick H. Robison, George H. Fisher, Clayton J. Woodworth, A. Hugh McMillan and Giovanni DeCecca, upon the charge of having unlawfully

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conspired together to cause insubordination in the military and naval forces of the United States, and upon the further charge of having unlawfully conspired together for the purpose of wilfully obstructing the recruiting and enlistment service of the United States, and on the further charge of having wilfully and unlawfully attempted to cause insubordination in the military and naval service of the United States, and on the further charge of having unlawfully obstructed the recruiting and enlistment service of the United States by means of various writings, publications and letters, which writings, publications and letters petitioner believes to be in part included among the papers so unlawfully seized and retained by said District Attorney, Marshal and Clerk of the United States District Court for the Eastern District of New York, as above set forth, and that said District Attorney purposes to use said letters and papers so unlawfully seized and retained at the trial of the above-entitled cause and that by reason thereof and on the facts herein set forth, defendants' rights under the amendment aforesaid under the Constitution of the United States have been and will be violated unless the Court order the return prayed for. That no receipt for the property taken specifying it in detail was ever given as required by Section 12 of Title XI of the Espionage Act, and no written inventory made as required by Section 13 of Title XI of the same act, has ever been returned, and your petitioner is, therefore, deprived of any record of the letters and papers so unlawfully seized and retained and many of them, addressed to your petitioner, your petitioner has never even seen since they were received in your petitioner's mail and taken by said unlawful seizure, all during your petitioner's absence from said city, which absence had continued from January 16, 1918.

Petition of Defendant Rutherford

313

Wherefore, petitioner prays that said Melville J. France, United States District Attorney for the Eastern District of New York, Percy Gilkes, Clerk of the said United States District Court, Richard M. Cahoon, United States Commissioner for the Eastern District of New York, and Clarence L. Converse, an officer of the United States Government, or any other person in whose possession the same may be, return the property taken from said Frederick H. Robison, to your petitioner, said defendant in said cause.

Dated, June 3rd, 1918.

JOSEPH F. RUTHERFORD,
Petitioner.

314

State of New York,
County of Kings, } ss:
City of New York, }

Joseph F. Rutherford, being first duly sworn on oath, says that he is the person whose name is subscribed to the foregoing petition; that he is familiar with the contents of said petition and that the matters and things therein contained are true in substance and in fact, except such matters and things as are set forth on information and belief, and as to such matters affiant verily believes it to be true.

315

JOSEPH F. RUTHERFORD.

Sworn to before me this

4th day of June, 1918.

P. V. Manning,

Notary Public,

(Seal) Kings Co.

316

Stipulation.

UNITED STATES DISTRICT COURT,
FOR THE EASTERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

vs.

JOSEPH F. RUTHERFORD, WILLIAM E. VAN AMBURGH, ROBERT J. MARTIN, FREDERICK H. ROBISON, GEORGE H. FISHER, CLAYTON J. WOODWORTH, A. HUGH MACMILLAN, and GIOVANNI DE CECCA,

Defendants.

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It is hereby stipulated that the annexed proposed bill of exceptions, consisting of two volumes of the record and one volume of exhibits, be settled and ordered on file as the bill of exceptions herein. The exhibits not included herein and consisting of five printed books, being Exhibits 1, 3A, 3B, 8 and 12, to be submitted to the Appellate Court in their original form, and used on the argument of the appeal herein.

318

It is further stipulated that the bill of exceptions as settled herein shall constitute the bill of exceptions, both in the appeal taken by defendants Rutherford, Van Amburgh, Martin, Robison, Fisher, Woodworth and MacMillan, above named, and also in the appeal taken by the defendant DeCecca, above named, and that said appeals and the record therefor shall be consolidated.

Dated, March 12, 1919.

SPARKS, FULLER & STRICKER,

Attorneys for Defendants.

JAMES D. BELL,

United States District Attorney for
the Eastern District of New York.

Testimony.

319

UNITED STATES DISTRICT COURT,

EASTERN DISTRICT OF NEW YORK.

THE UNITED STATES OF
AMERICA
Plaintiff,
against

JOSEPH F. RUTHERFORD, WILLIAM E. VAN AMBURGH, ROBERT J. MARTIN, FRED H. ROBISON, GEORGE H. FISHER, CLAYTON J. WOODWORTH, GIOVANNI DE CECCA, and A. HUGH Mc-MILLAN.

Defendants.

320

Hon. Harland B. Howe, Specially Presiding.

June 4, 1918, to July 10, 1918.

Appearances:

For the Government: Hon. Isaac R. Oeland and Charles J. Buchner.

321

For the defendants Joseph F. Rutherford, William E. Van Amburgh, Robert J. Martin and Fred H. Robison, Frederick W. Sparks, Esq.

For the defendants George H. Fisher, Clayton J. Woodworth, Giovanni De Cecca and A. Hugh Mc-Millan, Jesse Fuller, Jr., Esq.

June 4, 1918; 10:30 A. M.

In Judge Howe's Chambers:

Mr. Oeland: Does your Honor desire this taken down by the stenographer?

322 The Court: If there is going to be a number of oral motions I think it ought to be.

Mr. Oeland: The only one I am particularly concerned about is the motion made by the Government as to the dismissal of defendant Hirsh.

Mr. Sparks: We object on the ground that the defendant Hirsh is alleged as a coconspirator in this indictment, and the motion to dismiss the indictment as to him would result in making him a witness, not governed by the usual rule covering coconspirators. It makes him available as a witness without the disqualification of corroborating his testimony.

323 The Court: It is not necessary in this court to corroborate the testimony, anyhow.

Mr. Sparks: I think maybe your Honor is right, but I make that objection.

The Court: It is different than your state court where you have to have it corroborated. It is just a question here for the jury. They can believe it or not, as they like, whether it is corroborated or not. I am inclined to think that the motion should be granted. Since the Government has indicted a number, it ought not be said they cannot back out. That is a right the Government has the same as in civil suits the plaintiff can back out.

324 Mr. Sparks: It does not affect the rights of the others.

The Court: If it does affect the right, you make him available as a witness, that won't hardly be a good reason why the Court should say the Government should not back out.

Mr. Sparks: I suppose it is always in order to admit you are wrong even if you are with the Government.

The Court: Yes, the Government is quite often wrong. You may enter the motion to dismiss the indictment as to this defendant Robert H. Hirsh, one of the defendants, is granted.

Mr. Sparks: If it is proper, we take an exception to that. 325

The Court: It is always proper to take an exception. I hardly think it would be very valuable. All the defendants except to this ruling granting the motion. You put this in because it would have the effect of making this defendant available as a witness for the Government?

Mr. Sparks: Without the disqualifications of a co-conspirator.

The Court: What next?

Mr. Sparks: The motion we make is for leave to withdraw the plea and demur to the indictment.

The Court: What is the plea, not guilty? 326

Mr. Sparks: Yea.

The Court: When was it entered?

Mr. Buchner: The 8th of May.

Mr. Sparks: The indictment was found the 8th of May.

The Court: You think now, Mr. Sparks, the indictment is insufficient?

Mr. Sparks: Yea.

The Court: Why shouldn't they have that right, Judge?

Mr. Oeland: We oppose it.

The Court: Make this informal. I should be inclined to grant the motion. 327

Mr. Oeland: Now, your Honor, we have no serious objection to granting this. This matter has been under a plea of not guilty since the 8th of May. The trial is marked "Ready to go to trial." This is to be followed by a great number of other motions.

Mr. Fuller: It is the denial of this motion that is to be followed by other motions. We ask that the indictment be made more definite and certain. Upon the same defects of the indictment. Then there is another motion for the return of certain papers

328 the District Attorney now has. The demurrer on the indictment, we have two grounds. In order to have both here, we made both at the same time. The other is for a motion for a bill of particulars making the charges more certain, both based on the vagueness of the charges set forth.

Mr. Sparks: These motions are being held by Judge Chatfield?

Mr. Oeland: No.

The Court: Have you got your demurrer prepared?

Mr. Sparks: Yes.

329 The Court: Are you ready to take up the discussion?

Mr. Sparks: With this limitation we are: Judge Chatfield suggested he was inclined to grant that with reservations, and he suggested that in the event the demurrer was overruled, and we were permitted to plead over and went to trial again, that that demurrer would stand for some purposes as an admission of certain allegations.

The Court: I would not adopt that course. If you demur, you demur. I should allow you to plead over. I should not hamper you.

330 Mr. Sparks: That is the overruling of the demurrer and permitting us to plead again, could not be used as an admission on the trial of any formal matters or allegations of the complaint. Your Honor will so rule on that.

The Court: That would be the legal effect of overruling the demurrer. You admit facts for the purpose of the demurrer. Isn't that the rule? I shall not hamper you with admissions whatever. Come in and demur. If you lose on the demurrer you can make another plea.

Mr. Sparks: I want to get this straight. Judge Chatfield was of the opinion if he permitted us to

plead over again on the overruling of the demurrer, that the Government could use the admissions we made. 331

The Court: I shall not have any such stipulation. If you file a demurrer and it is overruled, you can plead over.

Mr. Fuller: Without any admissions?

The Court: Absolutely. If I give you the right, I give you the whole right.

Mr. Sparks: The admissions are only given on the arguments on the demurrer.

The Court: That's the rule I was taught. The Court can say, unless you stipulate so and so, I would not allow you to demur. 332

Mr. Oeland: I have no objection to the course your Honor is taking, except to say the action on the demurrer we shall insist, and the other motions are made for delay.

The Court: Specify more fully. Why not specify more fully?

Mr. Oeland: We are ready for trial.

The Court: It won't take but a moment.

Mr. Oeland: The papers were served this morning.

The Court: You can specify before night.

Mr. Oeland: They want everything.

Mr. Fuller: We want everything because the indictment gives us absolutely nothing. 333

The Court: If that is so, I shall sustain your demurrer.

Mr. Sparks: A reading of the indictment would show that.

Mr. Buchner: On the 8th of May they pleaded not guilty. They asked for time to demur.

The Court: I am not going to delay this trial. They demur. The demurrer was overruled and they go on with the trial. You don't expect to claim delay?

334 Mr. Sparks: We are going to claim, if the Court pleases, in this matter we shall have to file an affidavit if we are forced to trial today, with the question of the indictment being in the shape it is, that the time in this case has been so short to prepare for trial it is physically impossible for me to prepare. If your Honor will give me an opportunity to—

The Court: You say you have not been able to get the case ready. When was the indictment filed?

Mr. Sparks: The 8th of May.

The Court: If you were so busy, you should have told the defendants so.

335 Mr. Sparks: We have been so busy in this case, we notified the Government we could not be ready.

The Court: You will have to make a strong showing to get a continuance.

Mr. Sparks: Your Honor, on first flush, seemed so reasonable I think we could show that.

The Court: I hope I shall be reasonable on second flush. I won't make any difference with the progress of the trial by filing the demurrer. I should do that any time. Even after we have the jury.

Mr. Sparks: Shall we proceed with the argument on the demurrer?

The Court: Is it filed?

336 Mr. Sparks: Yes.

The Court: It is a general demurrer in a criminal case. Have you many grounds of demurrer, Mr. Sparks?

Mr. Sparks: Four.

Mr. Fuller: Four grounds of demurrer to each count.

Mr. Sparks: And then additional ones as to three and four.

The Court: A demurrer as to each count, and as to three—

Mr. Sparks: And four, additional demurrer.

337

The Court: Separate demurrers. I don't care to have you read the demurrers. In the usual form, probably. What section is this under?

Mr. Buchner: Sections 3 and 4, Title I, Act June 15, 1917.

The Court: Just read the section under which the indictment is drawn.

(Mr. Buchner reads the section.)

The Court: This is under these two. This did not include all these things. Insubordination, do you claim that?

Mr. Buchner: Yes.

The Court: Disloyalty?

338

Mr. Buchner: Yes.

The Court: Mutiny?

Mr. Buchner: Yes.

The Court: Refusal of duty?

Mr. Buchner: Yes.

The Court: Wilfully obstructing recruiting?

Mr. Buchner: Yes. The third and fourth counts are based on that.

The Court: You have a count for insubordination, another for disloyalty—

Mr. Buchner: No, conspiracy as to insubordination and disloyalty and all that, then three and four, the third is conspiracy and the fourth actually attempting to aid obstructing.

339

Mr. Sparks: Your conspiracy counts are one and two, and three and four actually obstructing.

The Court: Have you an extra copy of the indictment?

Mr. Buchner: The original is right there.

Mr. Sparks: Our point as to that is this: You will read down through his indictment down to the overt acts. It says a number of times specifically "conspired." There is no definite date. Each overt act was performed before June 15th. It does not

340 allege an act after the 15th of June, 1917. The second count the same. The third count, no conspiracy is alleged in the third count, and the fourth count.

The Court: I will deny the second application for names of persons solicited, on the ground that would be the Government's proof.

Mr. Sparks: Exception.

The Court: I will rule it is a matter of discretion.

Mr. Sparks: To whom the letters were sent, described in the indictment.

The Court: I will deny that.

341 Mr. Sparks: The dates when and where the defendants made the public speeches set forth in the first count.

The Court: I will deny that.

Mr. Sparks: The date and person to whom the defendants distributed and circulated the book, Vol. VII.

The Court: Denied.

Mr. Sparks: Exception. To whom and on what date the defendants distributed the pamphlet "Bible Students' Monthly." "Watch Tower" and "Kingdom News."

The Court: Denied.

342 Mr. Sparks: What date the defendant compiled and caused to be compiled certain reports, and when and what original writings the United States of America, where it is claimed the original writings of Vol. VII, and were added, and what the United States claims are original writings, and where and what defendants did the acts in Paragraph I.

The Court: Denied.

Mr. Sparks: On what date the United States of America claims the defendants distributed to Jerry DeCecca and Carmello Nicita, Vol. VII of "Bible Study," and to what other persons and on what dates,

as alleged in Paragraph III of the overt acts. We should have the dates when that book was sent to them, or sold to them. 343

The Court: Denied, as a matter of discretion.

Mr. Sparks: I may take exception, your Honor is saying you may make it a matter of discretion.

The Court: Yes.

Mr. Sparks: On what date they restricted recruiting.

The Court: Of course, I overruled your demurrer.

Mr. Sparks: I understood that. On what date they restricted recruiting and enlisting in the service, the United States has stated in the second count. 344

The Court: Is your case ready for trial?

Mr. Oeland: Yes.

The Court: You can comply with that, then?

Mr. Oeland: That is the conspiracy. It would be a hardship for the Government to call on names—

Mr. Sparks: That should be on what dates they conspired. That was a mistake.

The Court: You can specify that, Judge?

Mr. Oeland: Yes, I guess I can.

Mr. Sparks: Upon what date or dates the defendants, either by personal solicitation or otherwise, caused insubordination, disloyalty, etc., in the military forces of the United States. 345

The Court: Denied.

Mr. Sparks: To whom and on what dates the defendants sent letters described in the second count of the indictment.

The Court: Denied.

Mr. Sparks: The date when the defendants made the public speeches set forth in the second count.

The Court: Can you specify those?

Mr. Oeland: No, sir; they are numerous.

The Court: They were speaking all the time?

346 Mr. Fuller: It is a religious organization; they have sermons.

The Court: That's what I thought. Denied.

Mr. Sparks: The date and persons to whom defendants distributed and circulated Vol. VII.

The Court: Denied.

Mr. Sparks: To whom and on what dates the defendants distributed and circulated the "Bible Students' Monthly," the "Watch Tower," and "Kingdom News."

The Court: Denied.

347 Mr. Sparks: On what dates the defendants compiled and caused to be compiled certain reports and writings which the United States claims were added to original writings of Vol. VII, and what part the United States claims are original writings.

The Court: Denied.

Mr. Sparks: Also on what date the United States of America claims the defendants distributed and caused to be distributed to Jerry DeCecca and Carmelo Nicita, Vol. VII.

The Court: Denied.

Mr. Sparks: On what date or dates the defendants caused insubordination.

The Court: You will get that question in the demurrer, of course, but we will deny that.

348 Mr. Sparks: On what date or dates the defendants did unlawfully obstruct recruiting when the United States was at war, and the persons whom they caused an obstruction.

The Court: Denied.

Mr. Sparks: I take an exception to each one of the rulings or denials to each request for a demurrer.

Mr. Oeland: The first is granted and the ninth is granted with an amendment.

Mr. Fuller: There is a motion to have the papers under the search warrant returned.

Mr. Oeland: All these papers belong to one of three associations controlled by this corporation, the People's Pulpit Association, and so forth. 349

The Court: I shall overrule the demurrer, but I think I shall make up my mind in the course of an hour.

(Adjournment taken to four P. M.)

4 P. M.

The Court: I overrule your demurrer on each ground. You presented two grounds of demurrer. I will overrule it as to each and give an exception to each of the defendants to the overruling of their demurrer. How about your motion for a continuance? 350

Mr. Sparks: We have not made it now, because of your dismissal of the demurrer—

The Court: I understood you wanted a continuance.

Mr. Sparks: Yes—

The Court: You may now enter your pleas of not guilty for each defendant.

Mr. Sparks: We will now make a motion to your Honor for a continuance of this case, on the ground that we have not had sufficient time to sufficiently prepare this case for trial, and in support of that motion we state that on the 8th day of May, this indictment was found against these defendants; that I believe on the 12th of May I went down to Washington and had a conference with the Attorney-General, the purpose of which was to see whether a general agreement on all the works of this association could not be reached with a view of eliminating the publication of any matters the Government considered seditious. 351

352 The Court: How is that material?

Mr. Sparks: It is only material to show how little time we have had to prepare this case.

The Court: You gave your attention to carrying on your business there than to getting ready.

Mr. Sparks: We supposed we could dispose of the entire proposition. We were looking at it from a Government proposition. The Government wanted to accomplish a certain thing. It wanted to eliminate what it designated as religious propaganda, and we were trying to get the Government to state how they wanted us to act in the elimination of that religious propaganda. We assured the Government there was
 353 no intent on the part of any member of this association to impede the draft law, and that we would do certain things without prejudice. We left the situation with the Attorney-General. He was to take it up with his superior and pass on that as a Government proposition and see whether it was not better from a Government standpoint to reach an agreement with us as to future conduct of this association, the Government having sent out a telegram to its local association saying people who violated in the past were not to be prosecuted, but only those who, after intentionally persisted in the sale of this literature. The matter came on for pleading to withdraw our
 354 plea on the 15th of May. I stated in open court I had been in Washington in the hope we would be able to reach some agreement with the Government on this matter, and we did not go into the preparation of this case because we did not feel it would be necessary.

The Court: I should hold that was no excuse for not getting ready to try a case. Your clients are indifferent. You devote your time making an agreement for future conduct. Have you succeeded in making an agreement?

Mr. Sparks: No.

The Court: I doubt if you will. Suppose you did? You go to Washington and give attention there rather than to the District Attorney here, who has this charge.

Mr. Sparks: We assumed if we reached an agreement, these cases would not be prosecuted.

The Court: In other words, you gave attention to having the case withdrawn rather than defending it.

Mr. Fuller: We did both.

The Court: I am against you on that, very strongly.

Mr. Sparks: We come to the 15th of May. The case was then set for the 3rd. That was only two weeks. Personally, I have had other cases in court between the 15th of May and this date, and when the District Attorney notified us a week ago yesterday he was going to be ready in this case, we sent him a letter immediately that the vast amount of work involved in the preparation of this case would not permit it being tried by us. I don't know whether we said we would apply for a continuance or not, because it was so intimated. So we have had only a week to prepare for this case. 356

The Court: You had from the 8th of May.

Mr. Sparks: No; because they did not elect on which indictment they would proceed. 357

The Court: Did anyone in authority tell you they would not proceed on this indictment?

Mr. Fuller: They have three other indictments.

Mr. Sparks: Judge Chatfield said we would be notified on which indictment they would be tried.

The Court: Similar indictments?

Mr. Sparks: No; trading with the enemy and this conspiracy.

The Court: You have been indicted from the 8th of May. Of course, it would be your duty to get

358 ready for trial. It is the policy of the Government to try this case.

Mr. Fuller: Your Honor does not seem to realize the time taken going to Washington was time taken out.

The Court: That was poor judgment.

Mr. Fuller: Everything done, time going, the discussion, in preparation. This is a religious organization.

The Court: Then they should be more quickly ready to explain their situation.

359 Mr. Fuller: The organization expected to complete seven works. There is the question of intent in a paragraph of one of these books.

The Court: That is a question of fact for the jury.

Mr. Fuller: We are told that this religious volume is used as a subterfuge.

The Court: The question of intent is a question of fact.

Mr. Sparks: How can we tell by the cover of the book what the intent is? We have to study the book. We have to study the whole religious propaganda.

360 The Court: I think you have the ability to tell whether this would tend to insubordination or disloyalty or refusal of duty. Why don't the District Attorney tell what parts he objects to?

Mr. Sparks: That's what we want.

The Court: I will see that you get it. What parts are they?

Mr. Oeland: 247 and 253. There are two other places in the book, a half a column in the book, backing that up.

The Court: Can you specify the portions of that book? Also tell them the sermons, lectures and where

delivered. Have you any more motions for a continuance, Mr. Fuller? 361

Mr. Oeland: There are seven letters, no sermons and no lectures.

(The Court directed the District Attorney to furnish the attorneys for the defendants with copies of the letters to be used by the Government, and the portions of the books to be used by the Government.)

Adjourned to June 5th, 1918, at 2 P. M.

June 5, 1918; 2 P. M. 362

Met pursuant to adjournment. Same appearances.

Mr. Sparks: We wish to make several motions before the case begins. The Government did not comply, from our standpoint, with the order your Honor made with reference to specifying the time of the conspiracy in the indictment. All they have done is to cut from April 6th to June 16th, and make the allegation from June 16th, to the date of the filing of the indictment. That does not meet with the thought you had in mind, or we had in mind when we asked for specifications and the date of this conspiracy took place. 363

The Court: The theory of the indictment is it started then and continued right along.

Mr. Oeland: We expect to prove these different people came in at different times, not that they got together at one time.

Mr. Sparks: Then if that is so, the indictment is defective, because it says the defendants. It cannot be that anybody joined after, because it says the defendants all did from the 16th of June to the finding of the indictment.

364 Mr. Oeland: Your Honor granted Sections 1 and 9 of their demand. We complied with that.

The Court: These allegations of time are not binding on the Government.

Mr. Sparks: Our object in making this objection, and your Honor's object in directing them to give us certain specifications was so we would know what to meet. Our objection is, and always has been, the allegation is so general "to commit a conspiracy," which took place and consummated the first of July, August, September, October, etc. There must be some time during the period of the conspiracy, or attempt to commit a conspiracy, without an accomplished fact. It cannot be that it was an accomplished fact on the day the indictment was found. If the conspiracy was continuous and only became effected and resulted in a final conspiracy on the 8th day of May, no overt act could have been performed. The Government knows if we have committed a conspiracy.

The Court: Maybe the Government is going to try to make out this conspiracy by circumstantial evidence. You rarely have direct evidence in conspiracy.

Mr. Sparks: They ought to know the date of the circumstantial evidence they expect to prove in support of their allegation. If that is their theory, let them specify any limit up to a certain time the conspiracy was consummated.

The Court: I am not inclined to think they should comply with that, or give a more definite specification.

The Court (continuing): I don't expect they would specify a certain day and time. The probability is they have no direct evidence of this conspiracy. All conspiracy cases I have had to do with have been made out by circumstantial evidence. Great latitude is al-

lowed in the law of pleading in such a case as this is. I am not inclined to have them go on and specify with more certainty, or identify the time and place with more certainty. It is narrowed down to less than a year. It is very reasonable. What other motions have you except this? The application to specify more definitely is denied.

367

Mr. Sparks: We take an exception to the denial of our application on the ground that the bill of particulars furnished us is not in compliance with what we understood we were to receive under the order of the Court of June 4th, and we are not now prepared, in view of the indefiniteness of the allegations of the indictment that the conspiracy was a continuing conspiracy existing between two dates named in the indictment, and in view of the fact that none of the overt acts alleged in the indictment could have been committed after the ending of the conspiracy as set forth in the indictment itself.

368

Our next motion is to compel the Government to return two letters. It seems the letters your Honor directed them to serve copies of, and which they claimed they intend to offer in addition as overt acts, are papers taken under a search warrant, and the same question is involved. They have two letters belonging to Mr. Woodworth. We have filed our petition for the return of those letters under the Constitutional regulation that they were illegally taken from us and illegally held from us.

369

The Court: Is that covered in the petition you had yesterday?

Mr. Sparks: No; when they served us with these letters last night, under your Honor's direction, we discovered for the first time there were two letters taken from us under a search warrant. There are two separate search warrants. One in Pennsylvania and one in Brooklyn.

370 The Court: Have you objections to returning those letters?

Mr. Oeland: Yes, serious objections.

The Court: Who do they belong to, the corporation?

Mr. Sparks: To an individual; the individual, Woodworth.

Mr. Oeland: As your Honor ordered us, just as promptly as possible, we gave every requirement as we understood it last night. We gave them copies of letters we expected to use on our case, on the opening of the Government's case, gave them copies of everything we expected to be able to use on the Government's case. In that list were two letters they refer to here in their petition.

371

The Court: This is a new objection?

Mr. Sparks: Yes, in the petition. As soon as we learned about these this morning.

The Court: Can't that be taken up while we are getting the jury?

Mr. Sparks: Yes, if it is without prejudice.

The Court: We shall treat this in that way—

Mr. Sparks: As if made before the beginning of the trial.

The Court: Yes, I will take care of your rights.

Mr. Oeland: It raises a jurisdictional question.

372 The Court: You will have all your rights. We will treat it all hereafter on that motion as being done before the trial begins.

Mr. Sparks: Before the beginning of the actual trial, we move to dismiss the indictment and all counts therein, on the ground that it does not state facts sufficient to constitute a crime. I move to dismiss the first count in the indictment on the ground that the facts alleged in said count do not constitute a crime. I make the same motion as to Count 2 of the indict-

ment. The same motion as to Count 3 and the same motion as to Count 4.

373

The Court: These motions are denied. The Court rules separately on each motion, and as to each of the defendants, and each defendant has an exception to each ruling of the Court. I will preserve your rights; if you want, you may make your motion later and specify.

Mr. Sparks: We will amplify the remarks for that motion.

The Court: You may do that at your convenience any time during the trial; it may be treated as having been done before the jury was called.

(At 2:30 P. M. the selection of the jury commenced.)

374

Mr. Sparks objected to the question of Mr. Oeland put to Talesman Wilson, as to whether his knowledge of the defendants would not require more proof from the Government to prove the defendant guilty beyond a reasonable doubt.

(Mr. Sparks at this point directed the reporter to report the examination of the talesmen.)

Mr. Sparks: I object to that (referring to question above noted by Mr. Oeland to Mr. Wilson).

375

The Court: Do you think you would have some prejudice?

Talesman Wilson: You might call it a preference, not a prejudice.

The Court: Have you read this book, the seventh volume?

Talesman Wilson: Yes.

The Court: He may be excused.

Mr. Sparks: Exception.

The Court: What is the exception?

376 Mr. Sparks: To preserve our record.

The Court: You took an exception.

Mr. Sparks: The Court has excluded the juryman for cause. I take it the cause is not sufficiently made out. I take an exception.

The Court: He said he read this book.

Mr. Sparks: That's the reason you released him. That's the reason I made an objection.

The Court: You took an exception, not an objection. You merely spoke up saying, "Counsel takes an exception," when no objection is made. It is not reviewable. No error is committed. The Court is entitled to know what complaint you have to a
377 certain ruling. I am mentioning this to protect your rights in the matter if you prefer.

Mr. Sparks: I take an objection and an exception.

Mr. Fuller: If your Honor will permit me to specify the grounds. There is a chance there is a person familiar, apparently familiar, with the doctrines of this association. We have no desire to find a juryman biased in our favor, we also want to be sure there is no juryman biased against us. Familiarity with the doctrines does not enter into the qualifications of a juror. That would imply it would be necessary to try the case before a group of jurors, no one of whom is familiar with this work. If a
378 Congregationalist were on trial for some work, and whether somebody else was a Congregationalist and familiar with his doctrines, that would not constitute bias. So far as this book is concerned, it may be necessary for these jurors to become entirely familiar with the book before the trial ends. It is a possibility they may all have to read it. The only question so far as the book is concerned, with this juror is that he has a knowledge which all the jurors may be obliged to have before the conclusion of the trial. It does not seem to me the objection of any book

were questionable, or the fact that any body had read that book would disqualify him. But until we get further along in the preparation of this jury we do not like the idea of a question of this character resulting in a refusal of a juror without a peremptory challenge. 379

The Court: This juror may be excluded.

The Court: How are these questions material, whether they have relatives in the Government service. Do you want to tell the jury you do not want the jury to construe that question that your clients do not want a jury composed of any burden—

Mr. Sparks: It may be material so far as the view we take of it is concerned, it is not immaterial in view of the Government's position. The Government's position makes that necessary. 380

The Court: Did you ask them that, Mr. Oeland?

Mr. Oeland: No.

Mr. Sparks: He told them this was an indictment for impeding the draft. If there are other gentlemen on the jury whose relatives are in the draft it may be material to know how an accusation of that kind would affect.

The Court: Is it your purpose to challenge jurors because they have relatives in the army or draft age?

Mr. Sparks: I do not.

The Court: Then why ask it?

Mr. Sparks: I want to get their feelings on that point. 381

The Court: What further can you get?

Mr. Sparks: I might ask the question, and if it indicated to me the mere charge the Government made might prejudice them—

The Court: Why don't you ask them that?

Mr. Sparks: I did not get to that.

The Court: We won't spend any more time asking about relatives of draft age. Have you inquired of each jurymen?

382 Mr. Sparks: On that point?

The Court: On any point?

Mr. Sparks: Separately on all questions I want to ask them?

The Court: Yes.

Mr. Sparks: No.

The Court: Is there any jurymen of whom you have not asked any question?

Mr. Sparks: I think I have asked each jurymen some questions.

383 The Court: We won't ask any more. Your inquiry of them individually has ceased. We have taken an hour and a half with these twelve men. That is an hour and a quarter too much.

Mr. Sparks: Am I instructed—

The Court: Have you inquired of them each? I am not going to allow you to question each of them again.

Examination by Mr. Sparks:

Q. Do you think that a person who under the draft

Q. Would that bias you against him in considering him on the testimony of his guilt or innocence? A. I don't think so.

384 Q. If you do not think him a good American citizen, don't you consider that bias?

The Court: Can you sit down and listen to the evidence in the case, the charge of the Court as to the law, and decide that case on the evidence, and leave out your prejudice?

The Juror: Certainly.

Q. Would you carry into the jury room with you the fact, conscious in your mind—

The Court: We won't go in to find out how his mind operates. 385

Mr. Sparks: I take an exception to your Honor's interruption to my question.

Q. Would you carry into the jury room a prejudice against a person who made such a claim?

The Court: That may be excluded, already answered.

Mr. Sparks: Exception.

Q. Mr. Enos, how do you feel about that?

The Court: Gentlemen of the jury, are any of you gentlemen so prejudiced on any of these questions you cannot try this case on the evidence given you from the witness stand here in court, and decide it on that evidence, decide it fairly, impartially? What do you say to that? All say you can? 386

(No negative answer.)

The Court: That satisfies the rule of law, does it not?

Mr. Sparks: No.

The Court: Why?

Mr. Sparks: I have the right to examine and exhaust it and not have the Court put a question of that kind in that inclusive way and prevent me, and cut me off from developing what the juror actually has in mind when he already has answered to one question and said he had an objection. Your Honor forecloses me to that right. 387

The Court: You ought to be foreclosed if you interrogated each of these jurors for an hour. I am not going to let you pursue this to almost endless. If you have any question bearing—

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Mr. Sparks: Then, your Honor directs me to desist from asking the question about to be asked?

The Court: You may ask it. I will exclude it. You may ask and take an exception. You are not going to take much more time in examining this jury.

Mr. Sparks: This is an important case for eight men.

The Court: This case is no more important than any other case involving this charge, tried the same as any other case, tried the same as for the most humble and unheard of person.

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Mr. Sparks: If your Honor directs me to stop—

The Court: No; I don't direct you to stop. You ask your question; I will exclude them.

Mr. Sparks: If I am not permitted to examine this jury in the way I think I ought to in justice to my clients, I shall have to retire from the case.

The Court: You may retire any time you desire or want to. You may retire, Mr. Counsel; that threat will not be controlling. That is a right you have any time, but it is not a right you have to control the impanelling of this jury, and it will be just as well, just as good practice, to omit such threats.

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Mr. Sparks: It is not a threat, simply a statement that I cannot examine this jury under the limitations your Honor has put upon me.

The Court: You will have to take your exceptions. I am not going to allow you to pursue to an endless conclusion—

Mr. Sparks: I don't consider I am so doing.

The Court: Very well, I think you are. This jury should have been impanelled long ago.

Mr. Fuller: Would you Honor pardon me just a moment? 391

The Court: The Court was quite willing for counsel to take their own course in examining this jury. You have taken this—

Mr. Sparks: Your Honor makes this statement about an hour and a quarter examining this jury when Judge Oeland took up most of that time.

The Court: I hardly think he did. You should profit some by the questions he asked.

Mr. Fuller: Without wasting a single minute of the time of the Court and jury, it is our conception of our clients, we have a conception— 392

The Court: Ask these jurors collectively, not individually.

Mr. Fuller: Upon two matters, one possible bias towards a certain quality of man—

The Court: Why don't you ask them collectively?

Mr. Sparks: I did. Two spoke up and said they had bias, and I proceeded to ask those two when I was stopped by your Honor. Mr. Meyer said he did not consider such a person a good American citizen. I am shut off in inquiring further by asking what he meant by that, and then accuse^d of taking too much time. We told the Court yesterday it would take a long time and the Court entered upon the trial with that understanding, that the drawing of this jury was going to take a long time. 393

The Court: If you have any more questions to ask, ask them.

Mr. Sparks: Your Honor has excluded that question?

The Court: "The good American citizen," I will exclude, the juror said he could try—

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Mr. Sparks: How can I tell whether I can exercise a peremptory challenge unless I am permitted to know what he means by that, aside from the questions of the case.

The Court: Now, you stand back this way and ask these questions so the Court can hear them.

Q. Mr. Eno, would you enter the box with any prejudice against a person who claimed he had conscientious objections against war, and, therefore, under the Selective Service Act asked for deferred classification? A. I don't know. I think I might be a little that way.

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Q. You think you might be biased? A. I imagine I would.

Mr. Sparks: Then, we submit a challenge for cause as against Mr. Eno.

The Court: Notwithstanding what you say, what you think you might be, couldn't you hear the evidence here and try the case, lay aside your bias and prejudice, and give the Government and the defendants a fair and impartial trial, decide the case on the evidence and the law of the land?

A. As you put the question to me, I can.

The Court: That's what the law requires.

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A. Counsel asks me if a conscientious objector stated his objection would I take it that way.

The Court: You think you can do that?

A. The way the question is put to me, yes.

The Court: That is the law, isn't it, to qualify a jurymen. Of course, we all have prejudice, bias, likes and dislikes. I hardly think you can get a jury composed of men free from all bias and prejudice. Now, the jurymen being conscious he might have a little

bias, makes him a safe juror. A person who is prejudiced and knows it, there is not much danger from him. It is those of us who are prejudiced and don't know it, who are liable to do damage. So in view of what he says the Court will decline to excuse this juror for cause.

Mr. Sparks: Exception.

Q. Is there any other juror sitting in the box who has any bias against a person who makes a claim for deferred classification under the Selective Service Act on the ground of conscientious objections against war?

The Court: That is, you can try the case fairly and impartially, notwithstanding the person a witness or defendant, who has made such claim and taken such position, you would judge him on the evidence against him or for him, and on the law of the land each one of you feel sure you can do that, do you, each one of you gentlemen?

Q. Mr. Meyer, do you think a man has any right to make a claim on the ground he is a conscientious objector?

The Court: The Court will exclude that question, as a matter of discretion. In view of all the questions you have asked this juror and in view of the answers that the juror has given as to his ability to give a fair and impartial trial, the Court will exclude that, and feels it is a matter of discretion—the Court realizes it is a matter of discretion, in view of the length of the examination made by the Government and the defense. Proceed, please.

Mr. Sparks: I take an exception.

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The Court: Yes, exception.

Q. Is there any other juror in the box who has formed an opinion as to the right of any person to make a claim for deferred classification on the ground of conscientious objections? I take it by your silence nobody has.

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Q. I ask you if you all think a person who is legally entitled to make a claim for deferred classification upon the ground of conscientious objections has the right so to do? That requires an affirmative answer. I take it by your silence you answer that question in the affirmative for me. Is that correct, and do you so understand that question, Mr. Meyer? Will you all give me an affirmative answer as a body to my last question—do you think a person who is legally entitled to deferred classification upon the ground that he is a conscientious objector under the law, as the law defines it, that he has a right to make that claim?

The Court: As that question is put he would have the right to make that claim, and the jury is to decide the facts in the case, and the law is for the Court. So how does that become material. The Court would charge them that was the law. They are not judges of the law, judges of the facts.

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Q. Would you have any bias against any person who exercised that right?

The Court: Haven't you asked them that?

Mr. Sparks: I don't think so.

The Court: What do you say, would you try him fairly and impartially, give him the rights the law requires, give him that cheerfully, justly and with full measure?

(Several affirmative answers came from the jury box.)

The Court: Then, you all say you would do that; that would be good jurymen.

Q. Is there any gentlemen on this jury who has read in the newspapers accounts—what the papers describe as a raid on the Bethel Home, which is the house maintained by the people of this sect down on Columbia Heights, and in which the Government agents said, or the newspapers reported them to have said, a wireless was seized, over which was being sent messages to Germany? Is there any gentlemen on this jury who read any such "wireless" statements as that in the paper?

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One of the Jurors: I have seen a heading in the paper regarding a raid, but did not read the details.

Q. You didn't form an opinion in reference to that?

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The Court: You don't remember what you read? If you do remember you read it that wouldn't be evidence in the case, wouldn't influence you in the case?

The Juror: No.

Q. Do you believe a person has the right to express disapproval of the Government's action in entering this war?

The Court: In the trial of this case the questions of fact are for you to decide. Questions of law are for the Court to decide. Would you take the law of the case as given you by the Court and follow instructions and directions of the Court, regardless of your own opinions what the law is or should be? I might say, if the Court makes a mistake in its rulings on the law, the defendants have the right to take an exception, take the case to a higher court, and have the error corrected. If you should take your own views of the law as your guide there would be no way an error you might make could be corrected, so the rights

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406 of the party is saved by a right of appeal if the Court makes a mistake on the law, and it becomes manifestly your duty to follow the law as given by the Court. Would you all do that?

(Several affirmative answers come from the jury box.)

The Court: Isn't that sufficient?

Mr. Sparks: It is in a way, but I want to know whether any juror has an opinion as to the right of an individual to criticize the Government for its action in going into the war?

407 The Court: How is that liable to become material in this case? They are not charged with criticizing the Government. They are indicted for attempting to cause insubordination, obstructing the recruiting service, etc., not for criticizing the Government.

Mr. Sparks: That is so closely connected with the Draft Act and the entry in the war—

The Court: I don't think so.

Q. Do you think a person has a right to criticize the Government for passing what is commonly known as the selective service law?

408 The Court: On that question you take the law from the Court. They say they would take the law from the Court on all these questions, why should we interrogate them on their views?

Mr. Sparks: I am trying to find out if the gentlemen in the box have any opinion as to whether a person has the right to criticize because some of the articles the Government will introduce in evidence here they will try to construe as a criticism of the Government in passing the Draft Act. I have the right to know

whether any of these gentlemen believe we have that right. 409

The Court: You want to turn the jurymen into lawyers then. Suppose they have that opinion?

Mr. Sparks: I want to know it then, so I may examine further, and possibly use some challenges on the question; that is the object of my questions.

The Court: Well, this is a new way of finding out if men will make good jurymen to me. It is strange if they hadn't some notions of their own as to these various things.

Mr. Sparks: May I ask to have the question answered? 410

The Court: Do you contend there is any law in the land that prevents criticism of the Government?

Mr. Sparks: I say there isn't. Of course, I say there isn't. I want to find out from these jurors whether they think it is wrong for a person to stand up and criticize the Government in such times.

The Court: If there is nothing shown against these defendants except criticizing the Government, the Court will discharge them, and order a verdict of not guilty. How is that material? If there is no evidence to show they committed the offense charged the Court will order them discharged. 411

Mr. Sparks: I take an exception, and will pass on to something else.

Mr. Sparks: Has any gentlemen on this jury served on any other criminal cases of like nature where the Government is prosecuting for violations of any of the war acts?

Mr. Eno: I have.

412 Q. Mr. Eno, you served on some other criminal case, you say, in which the Government prosecuted for some war act? A. Yes, in the last two days.

Q. You sat on some of the cases this week? A. Twice.

Q. Was that the case of the negro on trial? A. Liquor case.

Q. Has any juror any personal bias against persons who profess religious beliefs which are out of the ordinary, or commonly accepted doctrines of what are called established churches, like the Baptist, Methodist, Episcopalian, Catholics, or any of the other well recognized denominations?

413 The Court: Are you willing a person should have such religious beliefs as he chooses?

(Affirmative answers from the box.)

Q. Whether they come in contact with your own or not you believe a person has a right to differ from you to the point of criticizing, or do you believe he has a right to criticize your own belief? Answer by Talesman Eno: He has a right to his views or religious the same as I have. I shouldn't be prejudiced against him because he would not carry my views.

414 Q. You wouldn't be prejudiced against him? A. No.

Prosecution excused No. 6.

Defense excused No. 1.

Prosecution excused No. 11.

Defense excused No. 5.

Mr. Oeland: As the jury has been examined we don't care to exercise any more challenges.

The Court: You are content with those that remain?

Mr. Fuller: That does not preclude us with

respect to the jurymen in the box, should we 415
want to challenge one.

The Court: If you know anybody you want
to challenge, you may do it now.

JOHN H. HART called as Juror No. 6.

MATTHEW SUAZE called as Juror No. 1.

ROBERT B. SNEEL called as Juror No. 11.

DONALD STEWART called as Juror No. 5.

The Court: You heard all these questions asked 416
by the Government and the defendants' counsel and
by the Court. You learned what the case is about,
who the defendants are. Do you four gentlemen, or
any of you, know of any reason why you cannot try
this case fairly, impartially by the evidence in court
and the law given you by the Court, and render a
fair and impartial verdict?

Talesman Stewart: No reason whatsoever.

The Court: Are any of you four gentlemen ac-
quainted with any of the defendants?

(No answer.)

The Court: Have any of you read any literature
they published? 417

(No answer.)

The Court: In any form whatever?

(No answer.)

The Court: Are any of you acquainted with counsel
for the defense?

Talesman Sauze: I know Mr. Fuller. I also know
Mr. France.

The Court: Is that acquaintance a chance one?

Talesman Sauze: No, sir.

The Court: Long standing?

418 Talesman Sauze: I have known them for several years, since I was a boy.

 The Court: Any business relation?

 Talesman Sauze: No, sir.

 The Court: How about the other jurymen just called.

 Juror No. 10: I know Mr. France. That question was not asked before.

 The Court: You were asked that before?

 Juror No. 10: No; wasn't asked.

419 The Court: Would this have any influence on your emotions, consciously or unconsciously—you want to try this case on the evidence given in court, not because you know the parties.

 Talesman Sauze: I have been a resident of this town fifty years. How could it be possible not to know these men?

 The Court: Any questions the defendants desire to ask? I am not going to allow the Government to ask any questions without they having some special question that has some special significance.

Mr. Spark Examines:

 Q. Mr. Stewart, have you any sons? A. Yes, twenty-three years old.

420 The Court: Have you other three gentlemen any sons of draft age?

 (All answer in the negative.)

 Q. Is he in the army now? A. No, sir.

 Q. Do you know anything about the doctrines of Pastor Russell? A. I do not, sir.

 Q. Did you read anything about his difficulties that he has had with any person in the newspaper?

 The Court: He isn't living, is he?

 Mr. Sparks: No.

The Court: It seems immaterial to inquire about his career. Would you other gentlemen just called answer those questions the same way? 421

(No answer.)

Q. Did you hear the questions I asked about the conscientious objector; how do you answer that?

The Court: Would you follow the law as given you by the Court on that question?

Talesman Stewart: I certainly would.

Q. Would you feel biased against such a person?

A. Not at all.

The Court: Will you other three gentlemen answer these questions the same way? 422

(Answers in the affirmative.)

The Court: If you direct these questions to the whole four of them, we can shorten up the examination.

Q. You answered that question, you have no bias, didn't you, Mr. Sauze? A. No bias.

Q. What is your business, Mr. Hart? A. Gardner.

Q. In Brooklyn, here? A. Yes.

Q. I ask that general question, if any of you gentlemen know, other than those who indicated, Mr. France, Judge Oeland, special counsel in this case, Mr. Buchner, one of Mr. France's assistants, or Mr. McHenry— 423

The Court: The Court covered all these.

Q. Or Mr. McHenry of the District Attorney's office in Pennsylvania? You know none of these gentlemen? Talesman No. 12: I know Mr. France.

Q. Personally? A. Went to school with him.

Q. Mr. Sauze, you knew him personally as a boy? A. Who?

424 Q. Mr. France? A. I said I knew Mr. Fuller as a boy.

Q. I know— A. I said I knew Mr. France and Mr. Fuller. I said I knew Mr. Fuller from a boy, and I met Mr. France professionally.

Q. Acted as your attorney? A. He never acted as my attorney. One time I consulted him on the Street Opening Bureau. The Court foolishly once made me a commissioner on condemnation proceedings.

Q. Do you think your acquaintance with Mr. France—

425 The Court: The Court asked all these gentlemen if that acquaintance would make the slightest difference. Isn't that sufficient?

Mr. Sauze: It wouldn't make any difference.

Mr. Oeland: The Government would like to ask one question.

QUESTIONS by Mr. Oeland to Mr. Hart:

Q. Are you a native Brooklynite? A. No, sir.

Q. Where were you born? A. Ireland.

Q. How long have you resided in Brooklyn? A. Forty years.

Defense excused Talesmen No. 3 and 12.

426

WILLIAM BELL called as Talesman No. 3.

GEORGE LAMBERT called as Talesman No. 12.

The Court: You two gentlemen who have taken seats have heard all that was said here; heard what this case is about. Do you know of any reason why you cannot fairly and impartially, on the evidence in

court and the law given you by the Court, render a fair and impartial verdict? 427

(No answer.)

The Court: Have you ever read any of the literature published by the defendant?

(No answer.)

The Court: Ever read any newspaper accounts of this case?

(No answer.)

The Court: Acquainted with any of the defendants?

(No answer.)

The Court: Ever heard anything of the case until you came into court?

(No answer.) 428

The Court: Acquainted with counsel on the part of the Government or defense?

(No answer.)

The Court: Don't know any of them.

(No answer.)

Defense excuses No. 12.

The Court: No. 12 is a man just called. Do you want to challenge him?

Mr. Sparks: Yes.

LOUIS H. PERLSTON called. 429

The Court: Have you any further challenges now?

Mr. Sparks: Except to the new ones. I will excuse No. 2.

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OLIVER CHICHESTER called as No. 2.

The Court: As to you gentlemen, you have been here and heard all that was said about the case. Do either of you gentlemen know anything about this case except what you heard here today?

Mr. Chichester: I saw it in the papers, Brooklyn Eagle.

The Court: How long ago was that?

Mr. Chichester: Whenever it has been, right along.

The Court: Did you learn anything there that would prevent you from trying the case in court, and decide it on the evidence without regard to newspaper accounts?

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Mr. Chichester: I don't think so.

The Court: Do you feel sure of that?

Mr. Chichester: Yes.

The Court: Do either of you gentlemen know of any reason why you should not sit on this case?

(No answer.)

The Court: Any reason why you could not render a fair and impartial verdict?

(No answer.)

The Court: Fair for the Government, fair for the defense?

(No answer.)

432

The Court: Any more questions?

Mr. Sparks: The Government—

The Court: No, I am not going to allow the Government to ask any more questions. Let the defense ask the questions.

Questions by Mr. Sparks to Mr. Chichester:

Q. You have been reading articles in the Eagle?

A. Yes.

Q. Did you form any opinion upon the subject matters of the articles you read?

The Court: As to the guilt or innocence of the defendants, as to the offense charged? 433

A. No.

The Court: It would be funny if a man could read without forming some opinion of some kind.

Q. Have you formed any opinion as to the subject matter of the articles you read in the Eagle? A. Somewhat.

Q. Were the articles in reference to this Government raid on the home down there? A. Yes. I have had some literature sent to the house different times, put in the mail box. 434

The Court: Literature from the society these defendants are connected with?

A. Yes.

The Court: Since this case started?

A. I don't know if it was since the case started.

The Court: Since the controversy occurred?

A. I can't say, not, we had them different times.

Q. Have you formed any opinion on these articles they sent you?

The Court: As to their guilt or innocence?

A. Not that.

The Court: Nothing in these articles would require evidence to change your mind? Do you intend to carry what you read into the jury room with you? 435

A. I think not.

Q. What is your business? A. Real estate.

Q. Man of family? A. Married, wife, no children.

Q. Mr. Bell, do you recall anything about this case?

A. I haven't read any articles at all.

436 Q. Mr. Chichester, are the articles you referred to related solely to the Bethel Home and the activities of the Government in suppressing this book, the Finished Mystery? Those are the only articles you have in mind at the present time? A. Yes.

Q. Mr. Bell, have you read any of those articles? A. No, I have not.

Q. Are you a married man? A. Yes, no children.

Q. Did you hear the question asked relative to a person making a claim for deferred classification? A. Yes, it wouldn't influence me.

Q. How about you Mr. Chichester? A. No.

437 Q. I want to ask whether Mr. Bell has any influence from the articles—

The Court: He said notwithstanding what he read he could try the case fairly.

Q. Have you acquired any prejudice against the members of that organization or their methods by reason of the articles you read in the Brooklyn Eagle? A. I have a prejudice against any one against the Government.

The Court: Have you any prejudice against the Government by reason of what you read?

A. Not a bit.

438 Q. Have you acquired any prejudice against the members of this organization as a result of your reading of these articles in the Brooklyn Eagle? A. A certain amount.

Q. Don't you think on the question of their guilt or innocence on a charge of impeding the Government in its work of organizing, whether the prejudice you acquire as a result of reading these articles would make it difficult for you to judge them with perfect fairness? A. No, I think I could decide on the evidence.

Q. And exclude prejudice or bias from your mind?

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A. I think so.

Q. You know the Eagle has been publishing articles for a long time?

The Court: We ought not go into that.

Q. I think Mr. Chichester's attitude of mind is satisfactory—

The Court: Take him or challenge him.

Q. The Brooklyn Eagle for many years—

The Court: We don't care.

Mr. Sparks: If the Brooklyn Eagle has done anything to the mind of Mr. Chichester it should come out here.

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The Court: This Court has been very liberal. I never heard of a jury being raked over—when I say raked over I mean combed out with a fine tooth comb.

Mr. Sparks: This jury, and your Honor, I know are with us, want us to have a jury with not a particle of bias or prejudice, and if we err in reassuring ourselves you will have to pardon it as over exertion.

The Court: We will pardon it.

Q. I want to fix your attention on a series of articles you read so I feel confident that will not— A. I think I could start on the evidence of the case.

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The Court: You feel sure of that?

A. Pretty sure.

The Court: In view of all these questions being asked you might you stand up so straight, so to speak, that you would lean over backwards, and do the Government injury?

A. If I were prejudiced the other way?

442 The Court: Yes.

A. I don't know.

The Court: I think sometimes human nature does that in its attempt to be so fair, so square, so to speak, that a person leans over backwards, and does the other party an injury. It does just as much wrong, just as much damage, as it would the other way.

Q. Did you say I had you down as Bell—I had you down as Chichester? A. Yes.

Q. You said you were against any person against the Government?

The Court: Aren't you?

443 Mr. Sparks: Of course that creates a laugh.

The Court: No, and the laugh must cease, and if it is repeated the audience will be invited to withdraw from the court room.

Mr. Sparks: And in answer to your Honor's question as to my position, which, of course, is not at all in question—

The Court: I think the question is impractical.

444 Mr. Sparks: If it is impractical that is because of my inability to see your Honor's point of view, but in developing what the juror says I have the right to develop that without the right of the Court asking me a question which has a tendency to put me in a position in court, and which your Honor should—

The Court: I will withdraw the question. Gentlemen (addressing jury) cast that out of your minds. Be very sure you disregard it, and the laugh that came forth from the spectators, cast that out of your minds. We are not here to make this trial a town meeting, or to be influenced by public sentiments, or public favor or disfavor.

Q. Have you formed a bias because a person, from your standpoint, is against the Government, would you be hostile to that person? A. I might be.

445

Q. What do you mean by being against the Government? A. I think a person has a right to criticize the Government on certain things.

Q. Just be fair and tell me what you mean? A. Against certain laws against this war, or things that try to prevent the war, or the draft law, I am opposed to.

The Court: You think that is against the Government.

Q. That is unlawful, persons are tried and convicted for such things, that is what you mean "against the Government?" A. Yea.

446

Q. You don't believe a person has not the right to insist upon all the legal rights which Congress in its war acts have enacted to protect certain people?

The Court: In other words, Congress passes a law regarding conscientious objectors. You would respect that law as given by the Court?

A. Absolutely.

Q. You would not be prejudiced against a person who set up a claim that he was a conscientious objector? A. It would have to be proven. They would have to prove he was a conscientious objector.

447

The Court: You would take the law from the Court?

A. I would take it from the Court.

Q. If the Court charged that the burden was on the Government, would you take that as a standard? A. Yes.

Q. If the Government did not prove it beyond a reasonable doubt you would take that as a standard for your action? A. Yes.

448 Q. Mr. Perlston, do you know any of the counsel?

The Court: You heard all the questions Mr. Sparks asked these other men. Would you answer them all the same way?

A. Mostly.

Q. Which ones wouldn't you? You mean the right of a person to make a claim? All the other questions you answer in the same way. You have no objection if a person makes a valid claim as a conscientious objector? That is not to be taken against him unless it is proven he was not, that is your answer? You would require proof he was not before you would
449 hold that against him? A. Yes.

Government excused No. 12.

MR. TEXTER called.

Q. Are you a native citizen? A. No, I am German.

Q. How long in America? A. Fifty years. Six years in New York and the last in Brooklyn, I had business.

Government excused No. 8.

Defense excused No. 2.

450

GEORGE SCHENCK called as No. 8.

CHARLES ALT called as No. 2.

The Court: Gentlemen, you have heard all that was said about the case, thus far, heard who it is against, what it is about. Do any of you three gentlemen know why you cannot try this case fairly and impartially on the evidence in Court?

(No answer.)

The Court: Do you know any of these defendants, acquainted with any of them?

(No answer.)

The Court: Any of you acquainted with counsel on the case?

(No answer.)

The Court: Ever heard anything about this case before?

(No answer.)

The Court: Ever read anything about it in the papers?

(No answer.)

Mr. Oeland: May I ask one question?

Examination by Mr. Oeland:

Q. What is your nationality? A. Native, born in New York City.

Q. How long have you lived in Brooklyn? A. 57 years.

Q. You? A. Native.

Q. You? A. Native.

Examination by Mr. Sparks:

Q. Do any of you gentlemen know any of the Government officials in this case?

The Court: I asked about the counsel in the case.

Q. Any of you gentlemen have sons in the service? Talesman Alt: I have two in France.

Q. Mr. Schenck, have you? A. No.

Q. Mr. Texter? A. No.

Q. Would the fact you have two sons in France, Mr. Alt, deflect you in any way—

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The Court: He already said he did not know of anything that would affect him.

A. I would try on the evidence.

Q. If a question came up about a person who claimed exemption on the ground of being a conscientious objector under the Draft Act? A. The Government of the United States passed a law for that purpose. They stand on that law. I would give them that.

The Court: You would give them that right?

A. Yes.

455 The Court: You would follow the law without regard to your personal view?

A. Yes.

Q. Have you any religious belief that would condemn that? A. I have not.

The Court: Have you read the literature published by the defendants, or any of the societies with which they are connected?

(No answer.)

Defense excuses No. 12.

456 GEORGE E. BACKUS called as No. 12.

The Court: Do you know any reason why you cannot try this case fairly and impartially?

A. I think I am prejudiced. I have read a great deal of it.

Number 12 excused.

F. T. ADAMS called as No. 12.

457

The Court: What do you say as to whether you could try the case fairly and impartially?

A. I sold Pastor Russel lumber when he first came here, furnished the lumber when the Bethel was built. I have read considerable about it and have contributed to the literature.

The Court: You read it?

A. Yes.

The Court: You read this book?

A. No, I haven't read the book.

The Court: Did you read any part of it?

A. No. I think I saw the book once; didn't read it. 458

The Court: By reason of what you know of the literature and acquaintance—

A. I think—

The Court: You would distrust yourself?

A. I might be prejudiced against the man because I know about the man.

The Court: You know about his beliefs and doctrines?

A. Yes, I read a good deal of it, and did not approve of some things he did.

The following gentlemen were called to sit near the jury box and listen to the questions put to those gentlemen already in box: France J. Hickey, Morris Hillman, Edward F. Moran, William Carson, James H. Adams. 459

The Court (to one of the talesmen): What do you say as to whether you could try the case fairly and impartially?

A. I think I could.

The Court: Are you acquainted with any of the defendants?

A. No, sir.

460 The Court: Or with counsel in the case, any of the counsel?

A. No, sir.

The Court: Heard anything about the case until you came here?

A. Read about it in the paper.

The Court: Anything that made a lasting impression on your mind?

A. No, sir.

Examination by Mr. Oeland:

Q. Are you a native American born? A. Yea.

461 Q. How long have you lived in Brooklyn? A. 19 years.

Q. Where did you live prior to that time? A. New York City.

Q. You have no bias or prejudice against the Government on the facts you heard or details you heard?

A. No, sir.

Q. Have you read any of the literature of the various organizations? A. No, sir.

The Court: Would you take the law from the Court respecting conscientious objectors as well as all other questions of law?

A. Yea.

462 Defense excused No. 12.

MORRIS HILLMAN called as No. 12.

The Court: What do you say, try this case fairly and impartially?

A. Yea.

The Court: Know any of the defendants?

A. Yea.

The Court: Acquainted with counsel in the case? 463

A. No.

The Court: Read anything about the case that made any impression in your mind?

A. No.

The Court: Native born person?

A. No, sir.

The Court: Where?

A. Russia.

The Court: How long have you been in this country?

A. Fifteen years.

Examination by Mr. Sparks:

464

Q. Know anybody in the Government service? A. No, sir.

Q. Have you any contract with the Government? A. No, sir.

Q. Any of your relatives? A. No, sir.

Government excused No. 12.

EDWARD F. MORAN called as No. 12.

The Court: What do you say about this; can you try this case fairly and impartially?

465

A. Yes.

The Court: Know any of the parties?

A. No.

The Court: Acquainted with any of the counsel?

A. No.

The Court: Heard anything about the case until today?

A. I have some recollection of reading it in the paper sometime ago.

466 The Court: Make any lasting impression on your mind?

A. I can't remember what it was.

The Court: You can't remember the details of what you read?

A. No, sir.

Examination by Mr. Oeland:

Q. Are you a native born American? A. Yes.

Q. Where were you born? A. Brooklyn.

Q. Living here since? A. Yes.

Q. Read any of the literature of this organization?

A. No.

467 Q. Know anything about the facts? A. No.

Q. Don't know anything by which you would be prejudiced against the Government? A. No.

(Mr. Sparks was here speaking with the Clerk.)

The Court: Mr. Sparks, are you trying to find out who will be called next?

Mr. Sparks: Yes.

The Court: You shouldn't do that.

Mr. Sparks: They have already been called.

The Court: Mr. Clerk, you should not do that. You should mix them up.

The Clerk: I will place them face down.

468 The Court: No, don't turn them face down. Mix them up.

The Court: Jurymen No. 8, the Court has been told that your health is not the very best all the time.

Jurymen No. 8: I don't think I told anybody that.

The Court: Then I am misinformed. The case will last probably a week or thereabouts.

Jurymen No. 8: I think I can stand it.

The Court: If you doubt your health I would excuse you as a matter of discretion.

(Jury sworn at 5 P. M.)

The Court (addressing the jury): I am a stranger here. I don't know what instructions you had, so at the risk of being presumptuous I am going to make one or two suggestions for you. You should not hear anything about this case, or read anything about it, during the trial, except what is heard here in court. You should be exceedingly careful in this regard, exceedingly careful not to hear anything about the case or to read anything about it except while the trial is going on here in court. If it should happen that you are present and conversations start about the case, just mention to those talking about it that you are a jurymen and it is improper for you to hear about it, and they will stop at once, but if anyone should persist after you tell him you are a jurymen, persist in talking about the case in your hearing, why, that is a grave offense and you should obtain the name of the party and report him to the Court. The Court will deal with the person who attempts to talk with you about the case out of court, deal with him for contempt, and it is a grave offense.

470

We should start in trying this case, gentlemen, and give it our best attention, best consideration, and hold our minds open until the case is finished. We can try this case as indicated—notice I say we, because the Court is as much concerned as you are—we can try this case fairly and impartially very much to our credit. We must be patient with one another during the trial, considerate with one another. If, by chance, any of us are late in the morning or noon hour, we have to be rather generous in that respect. You come in now, gentlemen; what is your program as to hours?

471

Mr. Oeland: 10:30 to 1 is rather late.

Mr. Sparks: I suggest we have it at the usual time. From the talk with your Honor we will have to do a little preparing at night. We don't get to our office much before half-past nine.

472 The Court: You are pretty well advised as to what the evidence will be.

Mr. Sparks: I don't know where we got it.

The Court: I was in hopes we could start a little earlier than 10:30 in the morning.

(Adjourned to 10:30 A. M., June 6th, 1918.)

June 6th, 1918; 10:30 A. M.

Met pursuant to adjournment.

Same appearances.

473

Mr. Sparks: Will your Honor pass upon the motion that is before you?

The Court: What motion is that?

Mr. Sparks: The motion to return the two letters.

The Court: Have you answered that motion?

Mr. Oeland: Yes.

The Court: Is it necessary to dispose of this now?

Mr. Sparks: It will be as soon as those letters are offered.

The Court: Are you going to offer them this morning?

Mr. Oeland: No.

474 The Court: Will you be offering those papers to-day?

Mr. Oeland: No. It might be this afternoon, not this morning.

Mr. Sparks: Then may we have a copy of the answer?

The Court: I haven't seen the answer. From what counsel said, I take it these papers were taken under a search warrant.

Mr. Oeland: And in Pennsylvania, not a search warrant of this Court, but in Pennsylvania, held by

the Commissioner or officer who has them in charge there, there being a charge in Pennsylvania against many individuals there, and the Government is expecting it may be permissible to use this here.

475

The Court: I should prefer to take this up with counsel in the library, if you can admit to not offer them until we take an adjournment.

Mr. Oeland: Yes.

The Court: Has counsel filed a brief?

Mr. Fuller: No, just a short memorandum.

The Court: I didn't know but what you might have filed a brief on the law.

Mr. Fuller: Will your Honor note my separate appearance for the different defendants? I appear for MacMillan, Fisher, Woodworth and DeCecca.

476

(Mr. Sparks appears for Rutherford, Van Amburgh, Martin and Robison.)

Mr. Sparks: We move to compel the Government to elect on which counts of the indictment they shall proceed, whether on the conspiracy counts or whether on the actual violation of the Draft Act, or to cause insubordination. I make that motion on the ground that the rules of evidence applicable to the different counts, the first and second as distinguished from the third and fourth, require different rules, and also involve two different and distinct crimes. Two different and distinct crimes cannot be joined in one indictment. Conspiracy is a separate crime from the crime alleged in the third and fourth counts of this indictment. Those two crimes cannot be joined in the same indictment.

477

The Court: I wasn't aware that the authorities were of that effect.

Mr. Sparks: You cannot include two crimes, as one count for murder and one for assault, in the same indictment.

The Court: I have always been taught you could.

478 In this case they are both felonies, one is a subsequent offense, the other conspiracy to commit it. Same group, both felonies.

Mr. Sparks: You couldn't indict me for two murders in the same indictment, two crimes. You couldn't indict me for murdering John Brown on the 1st of April and Bill Smith on the 2nd in the same indictment.

The Court: No, but you can indict a person for conspiracy to commit murder and murder.

Mr. Sparks: I think not; one is a common law crime—

479 The Court: We are not proceeding under the common law.

Mr. Sparks: I point that out to show you two separate crimes.

The Court: That is the purpose of different counts in an indictment, to charge different offenses.

Mr. Sparks: To charge the offense in a different way, but not a separate and distinct crime.

480 The Court: If you have any authorities on that question I shall be very glad to look at them. That is a new rule so far as my experience goes. I have always been taught that; that is very elementary. I never was aware there was any controversy in the books upon this question. However, you may be right about it. I will deny the motion and note an exception, and I will be very glad to look at any case you may have, and change the ruling if you have any authority for the proposition.

Mr. Fuller: In order to avoid any uncertainty as to the effect of motions, may we have it understood, or have a stipulation that when objections are made on behalf of any of the defendants, they are made on behalf of all the defendants? I simply want to avoid the necessity for double motions.

The Court: I think that would be a very practical

arrangement, unless there is some objection to that. We will treat all motions in the trial as being made on the part of each of the defendants, and that will then shorten up the trial.

Mr. Fuller: And the same applies to any objection made on the part of the defendants?

The Court: That makes it a little different. There might be some evidence admissible against one or more of the defendants, and might not be admissible against the others.

Mr. Fuller: That stipulation ought to require a separation of the objections. I was wondering whether—we had better leave the objection out of it and note objections on the part of the different defendants as they arrive. We are willing to do that.

482

The Court: We will take that plan to start with. There may be considerable evidence against one or more of the defendants.

Mr. Fuller: Subject to that, one objection will be considered as for all defendants?

The Court: You may make objections and take exceptions for all defendants on the admission of evidence until we make some other arrangement there. Does the defense want to address the jury now?

Mr. Oeland opened for the Government.

483

Mr. Sparks: I would only like to say a few words and reserve my opening until after the Government closes.

The Court: Yes.

(Mr. Sparks addressed the jury.)

WALTER A. CONKEY, being called as a witness on behalf of the Government, and duly sworn, testified as follows:

Direct-examination by Mr. Oeland:

Q. What is your business? A. Printer and book manufacturer.

Q. Where do you live? A. Hammond, Indiana.

Q. You print books, that is one of your businesses?

A. That's our business exclusively.

Q. I hand you a volume and ask you if you printed that book; is that one of the copies of the book printed by you? A. Yes.

Q. The title of it being? A. "The Finished Mystery."

Q. I hand you another copy for identification, I mark, attached to the indictment and marked Schedule A; is that one of the books published by you?

485 A. Yes.

Mr. Oeland: I think I shall have the other volume Schedule A. I don't think it is hardly necessary to put it in as a schedule as long as there is one in the indictment.

Q. This is the book you identified as "The Finished Mystery," one of the books published by you?

A. Printed by us.

Q. Printed by you?

Mr. Oeland: I ask that it be marked Schedule A for identification.

Marked Exhibit 1 for identification.

486

Q. Did you have a written contract for the publication of those books, or various written contracts for the printing? A. Yes.

Q. I hand you some written instruments and ask you to examine those and see if those are the contracts, written contracts under which the printing was done? A. Yes, that is one of them.

Q. Do you identify these as contracts under which the printing was done? A. Yes.

Q. Do you know Mr. Rutherford's handwriting? A. Yes, sir.

Q. Do each of these contracts bear his signature? A. Yes, I think so.

Q. Look at them and see. A. There are one or two of them that are my signature.

Q. I am talking about his signature now. A. Yes, all of them.

Q. You recognize all of them as bearing his signature? A. Yes.

Q. They all bear either your signature or someone representing your house? A. Yes.

Q. Work was done for the printing of "The Finished Mystery" under these different contracts? A. Yes.

Mr. Oeland: We offer it in evidence.

488

Mr. Sparks: I object on the ground no ground of any conspiracy has been offered, therefore, these contracts are not material at this time.

The Court: This is the first step.

Mr. Sparks: No, it is not. It is no step to a conspiracy case. The contracts on their face show they were signed prior to the date of the conspiracy alleged in the indictment. So they are self-disproving so far as any evidence of the conspiracy is concerned.

Mr. Oeland: Did you look at them?

Mr. Sparks: No, I know when they were signed.

489

Mr. Oeland: You know more than I do. June 22, 1917.

The Court: That is the first one?

Mr. Oeland: Yes.

Mr. Fuller: It is not a contract.

Mr. Oeland: The proposal is dated June 22nd; then they run right on down. I don't know how far.

Mr. Sparks: You are offering these *en masse*, you know.

490

Mr. Fuller: Let us look at the contracts, if you please.

Mr. Oeland: The proposal is dated June 22, 1917.

Mr. Sparks: I see what the Government is doing. They are omitting the first contract.

Mr. Oeland: I understood you to say none of them were.

Mr. Sparks: I thought you were going to put all the contracts in evidence.

Mr. Oeland: According to your opinion, anything prior to the indictment was not material. I am trying to leave them out.

491

Mr. Sparks: That is very nice.

The Court: That is very gratifying to counsel, so early in the trial.

Mr. Sparks: On behalf of the defendants, Van Amburgh, Robison and Martin, I object to the contracts on the ground their signatures are not on the contracts, there is no evidence in the case to show they had anything to do with it under either the first, second, third or fourth counts, and it is not admissible against them.

The Court: Judge Oeland, what is the purpose of introducing the contracts any more than to show the defendants published them at the request of this defendant?

492

Mr. Oeland: Nothing more material than that. There may be something in view of Mr. Sparks' suggestion, since he invited me to go into the other. I shall go no further. That is the main purpose, to show they were printed under the knowledge.

The Court: Shows the number of volumes, dates of printing and that is all.

Mr. Oeland: Gentlemen of the jury, I am

not going to take the time of the Court to read this; I am just going to call attention to the parts of the ordinary contracts, signed by The Watch Tower Bible & Tract Society, by Mr. Rutherford, as president, by Conkey & Company, made in the form of a letter of proposal, dated June 22, 1917, accepted June 30, 1917. It provides for the printing of the first book for 3,000 volumes, 3,000 copies, and goes through the various details of the manner in which they were to be printed, none of which now seems to be material to you. The next contract is dated June 22 and calls for 15,000. When I say June 22, I mean that is the date of the proposal; accepted June 30th. The same dates as the others except one calls for 3,000 and the other for 15,000, signed by the same party. The next proposal is dated August 11, 1917, accepted August 11, 1917, and calls for 75,000.

Mr. Sparks: Let me see that one, please, and let me see these other two, please. Just pass them back to me.

Mr. Oeland: The next proposal is dated September 20, 1917, for 25,000 volumes and accepted October 8, 1917. The next one is dated October 27, 1917, calls for 100,000, and is accepted on October 29th, 1917. The next one is a proposal dated November 17th, 1917, and calls for 100,000 copies, accepted November 17, 1917. The next is dated November 30, 1917, and calls for 100,000 copies. When I say dated, I mean the proposal is dated November 6th, the acceptance is December 5, 1917. The next proposal is dated November 30th, 1917, and calls for 25,000, the acceptance is dated December 5th, 1917. The next pro-

posals is dated December 4, 1917, and calls for 332,000 copies, and is accepted December 6, 1917.

Q. I hand you another proposal and acceptance dated May 26th, 1917, and ask you if that was signed?

Mr. Fuller: May I have notations made sufficient to identify these exhibits?

The Court: Yes.

A. Yes.

Q. Was that signed by Mr. Rutherford? A. Yes.

Mr. Oeland: We offer that. That is the one that was prior you spoke of before?

The Court: Prior to June 15?

Mr. Oeland: Yes.

The Court: Why is it necessary?

Mr. Oeland: That is what they call for. They said I was suppressing a very material part of the testimony. I don't want that to happen.

Mr. Sparks: We make the same objection as to the three defendants.

Mr. Fuller: This is only offered the same as the other exhibits, offered only against the defendants whose names are attached to the contracts.

The Court: This is the document you referred to in what you said?

Mr. Sparks: Yes.

The Court: Now you object?

Mr. Sparks: On behalf of the three; not on the part of the person who signed it.

The Court: There is no objection on the part of him?

Mr. Sparks: No.

Mr. Oeland: The same parties to this pro-

posals accepted June 6th, 1917, and the contract is modified by another acceptance of June 30, 1917. The first acceptance is June 6th, 1917, and then the modification in the contract for 96 pages additional will cost 7-10 something extra, to be paid on the completion of the presswork, dated June 30th, 1917.

Q. Was any printing done under this first contract? A. Yes, printing was done under all of them.

Q. Was that done before the modification of June 30th? Will you look at it and see if that refreshes your recollection? Look at the modification at the bottom of the page. A. I should think that printing was not done until that modification was put on it. That is my thought.

500

Q. Then any printing done on that was done after June 30th, 1917? A. I think so. I mean completed printing. We may have gone ahead in printing, but the completion was not made.

Q. Have you any way of determining what 96 pages were added to it? A. That would be simply that contract calls for a specified number of pages in addition to that. I presume they added 96 additional, that provides for the additional 96, but it would not indicate what pages.

501

Q. My question was: Can you identify the 96 pages that were added? A. They were added. I do not know what they were.

Marked Exhibit 2-J.

Q. That book was bound in certain different bindings, and printed and published? A. Yes, printed and bound.

Q. I hand you two volumes and ask if they were additional bindings from the one I showed you?

Mr. Sparks: I object; that is immaterial.

The Court: You may have them identified.

Q. Those are books printed by you and bound by you? A. Yes.

Marked Exhibits 3-A and 3-B for identification.

Q. Printed in different bindings? A. Yes.

Q. Do you recall any other additional bindings than the three I have shown you? A. None that I know of.

The Court: You may have them in evidence if you desire.

Mr. Oeland: Well, I had better mark them in evidence.

Marked Exhibits 3-A and B in evidence.

Mr. Fuller: I object to the introduction of these in evidence against the defendant McMillan.

The Court: They are only offered and received against one defendant. Thus far I am putting the burden on the Government.

Q. Did you see any of the defendants at your place there at any time in the latter part of June? A. Yes.

Q. Who? A. Mr. Rutherford.

Q. What time was he out there? A. I think the date, we have tried to verify, as the 28th of June.

Q. Is that your recollection? A. Yes.

Q. Was any of the other defendants with him? A. Yes.

Q. Who? A. Who are the defendants?

Q. McMillan and Woodworth? A. Woodworth was there.

Q. Was McMillan there? A. I don't think he was at that time.

Q. Was he there at any time during the printing of these books? A. I met him there.

Mr. Sparks: I object as immaterial, not connected in any way; it seems to me they would have to first establish some connection between McMillan. In this connection, the mere fact that he was in Hammond, Indiana, is no proof.

The Court: Counsel will demand a little more in that question. It is not necessarily implied in connection with the printing of these books.

506

Mr. Sparks: I think he should be informed that is what is necessarily implied.

Q. Can you fix the time Mr. McMillan was there?

Mr. Sparks: I object to the form of the question; not sufficient to inform the witness what the purport of the question is.

The Court: Admitted.

Mr. Sparks: Exception.

A. I cannot fix the time.

Q. Was it during the printing of the books, that period?

507

Mr. Sparks: I object as immaterial.

The Court: Admitted.

Mr. Sparks: Exception.

A. I think so; yes, sir; sometime during that period.

Q. You have spoken of Mr. Rutherford being there, Woodworth being there, and McMillan. What did Rutherford do while he was there? You say as near as you can recall he was there the 28th day of June?

A. He was there to see that the work was properly progressing.

Q. Just what did he do about the work? Look at any process of the printing? A. No; simply in an official capacity looked it over.

Q. What did he look over? A. I presume lots of proofs.

Mr. Sparks: I object to what he presumes and move to strike it out.

The Court: You use the word "presume." Do you mean you saw him looking over things, or what-not, by that?

509 The Witness: I saw him looking over things.

Q. Just tell the jury what you saw him doing. A. He was the proprietor of this institution and came there, and I afforded him the same deference as any other party coming to my plant, gave him my private office to conduct his business in.

Q. What did he do? A. He had a lot of men there. I went out in my official business and he went in and talked.

The Court: You mean the men in your employ doing his work?

The Witness: No, Mr. Woodworth.

510 Mr. Sparks: I object to the characterization of the witness as his men.

The Court: He will tell more about that.

Q. What other men were there? A. I haven't got this thing firmly in my mind, a lot of men came there and the Watch Tower Bible & Tract Society.

Mr. Sparks: I object as calling for a conclusion.

The Court: That won't make it inadmissible.

Mr. Sparks: Exception.

A. These gentlemen came there to see if this work was progressing properly. We were anxious to show them. We were doing our part the same as many other customers.

Q. What did you show them? A. That this was about being finished, ready to print it, ready to go to the press.

Q. Did you show them that? A. Yea.

Q. What did Mr. Woodworth do? A. He was there looking over pages.

Q. Pages of what? A. Of this "Finished Mystery."

512

Q. How long was he there looking over pages of that? A. My thought is two or three days.

The Court: Which is Mr. Woodworth?
(Mr. Woodworth stands up.)

Q. Is that Mr. Woodworth? A. Yea.

Q. Was anybody else there looking over the pages with Mr. Rutherford or Mr. Woodworth? A. There were others there. I don't know whether they were looking over the pages or not.

The Court: Other of the defendants?

The Witness: I think Mr. Martin was there at that time.

513

The Court: Robert J. Martin?

The Witness: I think so.

By the Court:

Q. Do you see him here? A. Yea.

Q. What was he doing? A. I don't know; he was simply there.

Q. Who else was there? A. That is four; I think that is about all.

Q. You mean Martin and McMillan, you mentioned McMillan; was he there? A. I don't know whether he was there on that date; he was there during the progress of that work.

Q. You cannot fix the date? A. No, sir.

Q. How long was he there? A. A very short time.

Q. What do you recall he did, if anything? A. I don't know. Do you want my impression?

Mr. Sparks: I object.

The Court: Your best recollection.

The Witness: My best recollection is he had nothing to do with that book.

515 Q. Just there on a visit? A. Yes.

Q. You have spoken of Mr. Woodworth's reading over the proof? A. Yes.

Q. Was anyone with him at the time? A. Yes, there was, I think.

Q. Who was with him? A. I don't know; I think there was two persons.

Q. With him at the time, reading the book? A. He and somebody else.

Q. You don't know who the other party was? A. I do not.

Q. I hand you a check and ask you if you received that check from The Watch Tower Bible & Tract Society? A. Yes.

516 Q. Was that on account of this printing? A. On a general account.

Q. That included the printing of this book? A. All the volumes, 1, 2, 3, 4, 5, 6 and 7; all the Watch Tower work.

Mr. Sparks: I object to it.

The Court: What is the objection?

Mr. Sparks: I move to strike out his answer. It does not apply to this particular book. He does not say so.

The Court: Did it pay for this book?

Mr. Oeland: Part of it.

Mr. Sparks: Does he so state?

By Mr. Sparks:

Q. Can you identify from that check it is on account of any part of the seventh volume, from the check itself? A. On account of the general account of The Watch Tower Bible & Tract Society.

Mr. Sparks: I object to it, then.

By Mr. Oeland:

Q. Does it include Volume 7 as well as other literature? A. Yes.

Q. In other words, they had contracts; they paid on it at different times? A. Yes. 518

The Court: How much is that?

The Witness: \$25,000.

The Court: Admitted.

Mr. Sparks: I object to it as against Van Amburgh.

The Court: Who drew the check; the corporation is not a defendant?

Mr. Oeland: I am showing the individuals who signed the checks.

The Court: Who signed it?

Mr. Oeland: Van Amburgh, countersigned by McMillan. 519

The Court: It may be admitted.

Mr. Sparks: We object to this check against any of the defendants, on the ground it is the check of the corporation itself, for the corporation account. It does not appear it has any relation to this book, except the book is included within the account, as kept by the witness.

The Court: He said this money went to pay the account of the printing and binding of this book.

Mr. Fuller: The witness has testified the printing and binding of this book included by his corporation The Watch Tower Bible & Tract Society.

The Court: Well, he said it paid in part for this book, if I have him accurately. That would make it admissible against those who drew the check.

Mr. Sparks: I take an exception.

Mr. Fuller: I take an exception.

521 Q. This is offered to show the parties who drew the check, or who signed it, W. E. Van Amburgh signing it, and it is countersigned by A. H. McMillan. As the volumes were printed, where did you send them to? A. Pardon me?

Q. Where did you send these various books to? A. They were through order sent to us by The Watch Tower Bible & Tract Society.

522 Q. Did you send them all here, or did you send them under their orders to various places? A. We took these contracts from our customers, such as McMillan, George Griffith; they sent us their orders to ship to different customers. We print the books and put them in our warehouses. When they have orders they tell us where to ship them. We ship them in the regular way.

Q. Did you get orders from the Watch Tower to ship them to various points? A. Yes.

Q. You did that? A. Yes.

Q. Can you tell us how? A. I gave that to Mr. Edson, United States Government official at Chicago. I gave him our books to look at, which he did.

Q. Can you tell in a general way where they were shipped to? A. I guess all over the United States.

Q. Shipped on orders of The Watch Tower Bible & Tract Society? A. Yes.

CROSS-EXAMINATION by Mr. Sparks:

Q. The first proposal made by your company, Conkey & Company, for the printing of this book, was made on May 26th, 1917; is that correct? A. I presume so; that goes through our estimating department, conducted in due course.

Q. I show you Exhibit 2-J and ask you whether that was signed by the company you represent on that date? A. Let me get that again. It was within a day or two of that.

Q. And prior to your company's signing that contract you had negotiated for a considerable period prior to the actual signing of Exhibit 2-J? A. We must have, or we never would have made this estimate. 524

Q. Refreshing your recollection from that subject, how long prior to May 28th, 1917, were you negotiating for the printing of that book? A. I couldn't tell you.

Q. Refreshing your recollection from that subject, how long prior to May 28th, 1917, were you negotiating for the printing of that book? A. I could not tell you.

Q. Approximately? A. Some little time, because we had to get information in order to get the estimate and proposal. 525

Q. Some little time might be around a week or a month? A. It might be a week, two weeks or four weeks.

Q. You got that contract back about what date? A. That is signed June 6th; it must have been about the 9th.

Q. And if it was mailed on the 6th, in the ordinary course of the mail, when would it reach you? A. About 36 hours.

Q. That would be on the 7th or 8th; is that correct? A. Yes, 7th or 8th.

Q. With that paper 2-J you received the proof for the book? A. I don't know.

Q. You don't know. Refresh your recollection on that, Mr. Conkey, will you, and tell us whether, with the paper you have, Exhibit 2-J, you did not receive a large part of the original manuscript of the book? A. I would never know that.

527 Q. You are not distinguishing between copy or manuscript. I mean any writing purporting to be the book itself. A. The manuscript, of course, is the original manuscript of the work; the copy may be the return proofs.

Q. I mean the original manuscript from which you were to make your copy; didn't you receive that with this contract, 2-J? A. I don't know. I have 1,500 people employed; I don't know.

Q. I show you a receipt and ask you whether that will refresh your recollection as to when you received that original manuscript? A. That is signed Mary Roach, our cashier, a woman who has been with me for 25 years. She got it.

528 Q. Does that refresh your recollection? A. Refresh her recollection; I did not get it.

Q. Can you tell us from that receipt, signed by your cashier, whether you can state, whether the original manuscript was received in your place of business on the 9th of June, 1917? A. This indicates it was received June 19th, by Mary Roach.

Q. June 19th, 1917, isn't it? A. Yes, June 9th.

Q. 1917? A. Yes.

Q. And the stuff you referred to and received that time was the original manuscript for the printing of this book? A. I don't know.

Q. Don't you know? A. Certainly not; I cannot know it.

Q. Has your concern printed anything during the month of June, other than the 7th volume? A. Certainly; printing all the other volumes all the other time.

Q. You are not receiving manuscript for that writing? A. I should say not.

Q. You have the manuscript there, and the place, in your place of business. Here is a receipt for the manuscript coming into the office.

The Court: Does that say manuscript?

Mr. Sparks: I don't know.

530

Q. Does that refresh your recollection? A. I don't know. I never saw this before; I really don't know any more about it than you do.

Q. I show you a letter dated June 14th, 1917, and ask you who signed that letter? A. One of our operating departments.

Q. Refreshing your recollection from that letter, can you say prior to what date your company received the original manuscript for the 7th volume, or any part of it? A. I know nothing about that transaction.

Q. Does this transaction refer to any other transaction than the 7th volume? A. This letter speaks exactly for itself. This was done by one of our operating men. He says exactly what he says in this letter.

531

Q. Will you answer the question? Can you tell this Court and jury whether prior to the date of that letter your company had received any part of the manuscript for the 7th volume? A. I cannot.

Q. I show you a letter dated June 18th, 1917, and ask you whether that will refresh your recollection as to whether prior to that date you had received any part of the original manuscript of volume 7? A. I infer from this letter that they did.

Q. Prior to what date? A. Your postal card says the 14th.

Q. The postal card is the 9th? A. The 9th, pardon me. The postal card says the 9th.

Q. In conjunction with that letter and this postal card, can you state when the original manuscript was received in your company? A. I know nothing but what the letter states. Personally I know nothing. I simply know what my employees have done.

533 Q. Refreshing your recollection from your letter of June 18th, 1917, and the card dated June 9th, can you state when that original manuscript was received in your company's office? A. I was not a party to this thing; I do not know it.

Q. You were a party, you signed the contract, didn't you? A. I got a hundred men and women operating the business. What they do, they do as representatives for the company.

Q. This was the new book you were going to print, Mr. Conkey. I presume you were interested in it. A. I suppose the president of this railroad knows whether a man was run over on the outside. He ought to, he is the president.

534 Q. I am asking you, Mr. Conkey, whether you cannot refresh your recollection from the letter of June 18th and the postal card signed by your cashier, and tell me when your company received the original manuscript for this volume?

The Court: If you have personal knowledge on it, you can testify. If you haven't any personal knowledge you cannot say.

The Witness: I have no personal knowledge.

Q. You knew it was received at some time, didn't you, Mr. Conkey? A. The letters say so.

Q. You testified here your company printed this book? A. Yes.

Q. You know sometime you received this manuscript? A. Yes.

Q. You have that of your own personal knowledge? A. You are trying to pin me to a date.

Q. I am not trying to pin you to a date. I am most liberal, and ask you to try and tell us about the date you received the original manuscript? A. I have no knowledge.

Q. Did you receive the original of which this is a copy of a letter dated June 6th, 1917? A. I presume our company did; I did not personally.

The Court: Is there any claim by the Government but what they must have received it prior to June 6th?

536

Mr. Oeland: None, part of it was. There was a modification of 97 pages after June 30th.

The Court: Why not concede this?

Mr. Oeland: We may.

Mr. Sparks: Will the Government admit that on June 9th the original manuscript for this book, with the exception of 97 pages referred to in Exhibit 2-J, with the exception of the 97 pages, was received on June 9th?

The Court: The 97 pages were received after June 15th. Any objection on the part of the Government?

537

Mr. Oeland: None whatever.

Mr. Sparks: The book was received on June 9th, with the exception of 97 pages.

Mr. Oeland: 97 pages.

Mr. Sparks: 96 pages.

The Court: 96 or 97, those were received after June 15th?

Mr. Sparks: I don't think that is a fact.

The Court: After June 15th?

Mr. Sparks: After June 15th. I will have to reserve that.

The Court: He already testified that he received them after that.

Mr. Oeland: He said the modification was approved as to the addition of 96 pages, on June 30th.

The Court: Yes, they fixed a price.

Mr. Oeland: He did not say the date they were received.

539 Q. You don't say the 96 pages referred to in the memorandum on the third page of Exhibit 2-J were received after June 15, 1917? A. I told you in my former testimony, I presume that was the case.

Q. You don't know that, do you? A. No.

Mr. Sparks: I move to strike out his answer on that point.

The Court: No, you having asked a question, I am inclined to have the answer stand.

Q. Were the 96 pages referred to in this exhibit received prior to June 15th, 1917? A. I don't know.

Mr. Sparks: Now, I move to strike his former answer out.

The Court: Denied.

540 Mr. Sparks: Exception.

Q. The Government having conceded that the original manuscript for the 7th volume having been received by you on the 9th day of June, 1917, can you state whether you immediately started to prepare the proof copy? A. We did.

Q. And can you state in how many days you completed the proof copy? A. I cannot.

Mr. Oeland: Let me see that exhibit if you are through with it.

Q. Can you identify those 96 pages referred to in 2-J?

Mr. Oeland: He said he cannot.

A. Can I what?

Q. Can you identify the 96 pages referred to on the third page of Exhibit 2-J? A. I cannot.

Mr. Fuller: Do you know whether they were in the first part of the book, the last part of the book, or the middle?

The Witness: I don't know. There is no way in which I could know.

Mr. Oeland: If your Honor please, we offer in evidence, read in evidence, certain pages from "The Finished Mystery."

542

Mr. Sparks: Under the direction of the Court, made the other day, I ask the Government to stipulate the only pages that they claim violates the Espionage Act are the pages they designated the other day.

Mr. Oeland: There is no contention about that.

The Court: Those are the ones they are going to read.

Mr. Sparks: We want that stipulation; that is the stipulation we got the other day.

The Court: That is what they are going to do. Read that.

543

Mr. Sparks: I don't know; I want the stipulation on the record.

Mr. Fuller: I understood from Mr. Conkey your Honor has excused him.

The Court: Yes.

Mr. Fuller: Just as we told you the other day, the fact that the Government has had our correspondence for months, handicaps us cross-examining the witness. We ask your Honor to have Mr. Conkey stay in court for a short period of time to establish whether we have

544

other documents. We might have a letter he himself sent. We do not know what they got. The Government has had possession of everything bearing on the subject for several months. We want to be sure that there is no paper on which to cross-examine Mr. Conkey before he leaves, in view of the fact the Government—

Mr. Buchner: There is no correspondence from Mr. Conkey. If they think so, they can come down and get it.

Mr. Sparks: They came down and took our papers.

545

Mr. Oeland: They ought to make an objection.

The Court: There is always more or less of this. The Government had the right to go and get them, the right to keep them. They had a search warrant from the Government; you had the right to have them back for a long time.

Mr. Fuller: That is not true. The District Attorney's statement in that connection is not correct. The question is whether Mr. Conkey may be ordered to remain.

546

The Court: He may come back. I am not inclined to keep a man who has a large business and a large number of persons employed.

Mr. Fuller: We don't want to do that.

The Court: It is very evident this witness knows little about the details of this printing. He may return to the stand if he is still in the room.

Mr. Sparks: Will you stipulate after reading that letter the book was in process of manufacture prior to the 16th of June, 1917?

Mr. Oeland: Certainly. I will let that letter go in evidence for what it is worth, saying it

came from the witness, or someone authorized to write it for him, whatever the letter conveys.

547

The Court: Read it.

The letter was read to the jury, marked Exhibit A in evidence.

Mr. Oeland: We now offer in evidence certain portions of the book.

The Court: Are those the portions you identified the other day?

Mr. Sparks: It is distinctly stipulated the Government admits the only portions of the "Finished Mystery" which they claim are in violation of the Espionage Act are the portions they are now going to read.

548

The Court: That goes further than the talk was. The talk was they would offer in evidence certain portions.

Mr. Oeland: We would offer in evidence certain portions in our direct case.

Mr. Sparks: That does not cover it. If they are only going to read certain portions, they may pick out different portions later in their address to the jury.

The Court: I won't allow that.

Mr. Oeland: We won't do that, but on cross-examination where issues become material, we want to refer to this.

549

The Court: Yes; that depends on the defence. You are to read in evidence now parts of the books you referred to in the library the day before yesterday.

Mr. Sparks: And which they claim are violating the Espionage Act.

Mr. Oeland: I would not be offering them if they did not.

Mr. Fuller: For the purpose of our being apprised of what we are charged with. Ex-

550

cerpts were the only excerpts referred to by the indictment.

The Court: I think a fair understanding was as long as the book was a book containing several hundred pages the Government would read in evidence certain pages in the opening of their case, that is as far as it is necessary to go. Of course, the defendant may make it necessary for the Government, in order to meet the defence, to make other motions; I would not permit them to refer to other portions in summing up.

551

Mr. Sparks: You are admitting other portions of the book, which they claim are in violation of the Espionage Act.

The Court: No; I will take care of you on that.

Mr. Fuller: I want that understood.

The Court: Gentlemen, have no fear.

Mr. Fuller: What we are interested in is what they promised not to introduce. I don't want any impression on that score.

The Court: There won't be any misunderstanding. If any difficulty comes up, I shall resolve it in your favor.

The Court: You may read.

552

Mr. Oeland: We offer certain extracts from the preface.

Mr. Fuller: Is this the book in evidence? I understood it was only marked for identification.

Mr. Oeland: We are now offering these portions of the book in evidence.

Mr. Fuller: We object to the introduction of those in evidence on the ground that the defendant DeCecca is not shown to be involved.

The Court: Are you going to connect him? 553

Mr. Oeland: Yes; we cannot do it all at once.

Mr. Fuller: I make the same objection on the part of each defendant.

The Court: You don't make it on behalf of these gentlemen who were out there and participated in the procuring of the printing and paying bills?

Mr. Fuller: No; that is the defendants, Rutherford and Woodworth. Those two only excepted.

The Court: Martin was there.

Mr. Fuller: There is no evidence except of 554 his physical presence in the building.

Mr. Sparks: It is remote.

Mr. Fuller: I don't want to be delaying progress with objections. We cannot tell by connection how the prosecution is going to work out. This is to preserve our rights. I realize there might be some difficulty in presenting the evidence. We do not want to waive our rights. It seems to me in respect to the book up to date the testimony only connects Rutherford and Woodworth with the book. I make the objection as to the other defendants at this time.

555

The Court: What do you say to that, they say Rutherford and Woodworth are the only ones this is to be received against.

Mr. Oeland: We have shown a check signed by VanAmburgh and MacMillan and VanAmburgh.

The Court: I am inclined to admit it against those two.

Mr. Oeland: We shall connect it.

The Court: It may be admitted against the four.

556

Mr. Sparks: Before they can read, or offer in evidence, they must establish the conspiracy count, establish the conspiracy by overt acts themselves, they must first establish the conspiracy before documentary evidence, which is part of the overt acts claimed in the indictment, can be use, otherwise they would be able to prove a conspiracy by separate individual acts which they could pin together. That I understand the Court prohibits.

The Court: That I understand the Court allows.

557

Mr. Sparks: I understand that is what they prohibit.

The Court: Separate acts, all tending to accomplish the same purpose, made in pursuance of a common purpose, tending to accomplish that purpose, whether separately or together—

Mr. Sparks: Up to date, unless willing to drop out the defendants, they have not connected, your Honor should not permit this in evidence and let it be read.

The Court. I think it should be admitted in evidence.

Mr. Sparks: Exception.

558

The Court: The general practice would be to admit it in evidence against all defendants. I am making a rule more favorable to the defendants. I am putting the burden on the Government.

Mr. Oeland: We offer in evidence from the preface, Series 7 of "The Finished Mystery."

The Court: Mr. District Attorney, will you mark what he reads in a copy for me?

Mr. Oeland: Series 7 of "The Finished Mystery." The bottom of the page, "International Bible Students Association, Brooklyn,

London, Melbourne, Barmen, Elberfeld, Ore- 559
bro, Christiana, 1917."

Then on the next page, "The Posthumous work of Pastor Russell, copyrighted 1917, People's Pulpit Association, Brooklyn, N. Y., U. S. A., British copyright secured."

Further in the preface, on page 6 of the preface, "It seemed pleasing to the Lord that Brothers C. J. Woodworth and George H. Fisher should prepare the 7th Volume under the direction of the Watch Tower Bible & Tract Society. While both residing in the same city, they have worked separate and apart from each other, not even comparing notes. The reader will be able to judge how fully the work of each harmonizes with that of the other and with the Divine plan, thus giving further evidence of the Lord's direction in this matter." 560

Mr. Buchner: The next part is page 247, the second paragraph upon the page.

(Mr. Buchner reads beginning at the second paragraph on page 247.)

Mr. Sparks: Will you explain the quotations you are using?

Mr. Buchner: The quote begins with the word everybody. 561

Mr. Sparks: Can't you preface your remarks?

Mr. Buchner: I am going to read it as it runs.

Mr. Sparks: I think you might tell the jury it is a quotation.

Mr. Buchner: It is an alleged quotation.

Mr. Sparks: You do not deny the quotation?

Mr. Buchner: We certainly do.

562

Mr. Oeland: We do.

(At another point in the reading Mr. Sparks said Mr. Buchner was not reading the quotations.)

Mr. Buchner: That is not true.

The Court: What difference in law does it make whether it is a quotation?

Mr. Sparks: The jury wants to know.

The Court: It wouldn't make any difference, would it?

Mr. Sparks: Certainly.

The Court: When the person uses the language of another he adopts it as his own.

563

Mr. Sparks: On the question of intent. It is a different question when a man writes language himself than to quote it.

The Court: When he quotes it, he adopts it.

(Mr. Buchner then reads from page 247, to 253.)

(Mr. Buchner then reads from page 289, in the middle of the page, beginning with the words, "The millions who have heard," and ending with the words, "at Babylon's hands.")

(Mr. Buchner then reads from page 406, beginning with the heavy type beginning with the words, "They have blown the trumpet.")

564

Mr. Fuller: Kindly say "7:14" so they will know you are reading a quotation from the Bible.

(Mr. Buchner then reads beginning with the words "7:14. They have blown the trumpet," ending with the words, "all the multitude thereof.")

Mr. Sparks: That ends the Bible quotation, and what follows is the interpretation of the quotation that goes before it.

Mr. Buchner: I think we should have the right to read this without interference.

The Court: We want to have the jury understand it. I think it is all right.

Mr. Fuller: I ask the District Attorney to read from the top of the page "Ezekial." "Ezek. 7:14," ending with the words "meet with opposition."

Mr. Buchner: Then on page 407, this is not a quotation, beginning with the words "with the demonetization of silver," and ending with the word "Z. '98-331."

Mr. Fuller: I ask the District Attorney to be directed to read the 7th verse of the 19th chapter of Ezekial, on which verse this paragraph is a comment, because what the District Attorney is doing now is taking one paragraph and separating it from the verse.

The Court: Why should the Court direct him to read anything particularly of the book?

Mr. Fuller: I think the District Attorney should not be permitted to split up a sentence.

Mr. Buchner: We have not done that.

Mr. Fuller: I think for the same reason he should not be permitted to split up a paragraph, to commence in the middle of a paragraph.

The Court: What difference does it make?

Mr. Fuller: The only difference is I do not think the jury knows as much as they would.

The Court: Than they would when you came to read it to them.

Mr. Fuller: Certainly.

The Court: I don't think the Court should direct what the Government should read.

Mr. Sparks: Will your Honor at this particular time permit us to read what has gone before so the jury will know?

The Court: You may.

(Mr. Sparks reads from the 7th chapter of Ezekial, 19th verse, which precedes what Mr.

568

Buchner read beginning with the words "They shall cast their silver," and ending with the words "of their iniquities.") That is the end of that paragraph. What Mr. Buchner read is an interpretation of what the person writing that particular part of the book gave of that Bible verse. Mr. Buchner then reads from page 469. This is not a quotation, fine print (beginning with the words "God will pour out his wrath." And ending with the words "telling effect.")

Mr. Sparks: May I read? That is an explanation of the 23rd chapter of Ezekial, 31st verse.

569

(Reads beginning with the words "and I will pour out mine indignation." Ending with the words "and skillful to destroy.")

Adjourned at 1 P. M. until 2:15 P. M.

Trial resumed.

Same appearances.

Mr. Oeland: We offer in evidence certificate of copyright.

570

Mr. Fuller: Suspend for just a moment, please. It is stipulated that Mr. Conkey may go back to his place of business and send a complete transcript of the dates when he received the various parts of the original manuscript, when he proof read it, and sent it back to Brooklyn, and when he in turn received it back from Brooklyn, and when the various parts of the book were set up in full form and that schedule might be received in evidence.

Mr. Oeland: There is no objection.

The Court: How is it material?

Mr. Sparks: We think it is material. Your Honor can rule on it then. 571

Mr. Oeland: I would like to have the dates when the payments were made.

The Court: That is as agreeable to counsel as to the Court?

Mr. Oeland: They were covering everything you needed on that this morning.

We offer in evidence certificate of copyright registration, a certified copy under the seal.

Mr. Sparks: We object, not binding on any of the defendants in this proceeding, or action, and as in favor of the corporation.

The Court: It is evidence that shows when it was copyrighted. 572

Mr. Sparks: Yes, but this is not evidence against these defendants individually of any overt act. I don't see how you can predicate an overt act on a lawful act, which the laws of the country intend you to perform.

The Court: That shows when it was published.

Mr. Sparks: Not published, when it was copyrighted.

Mr. Oeland: That is a circumstance showing when it was circulated, lawfully carrying out an unlawful act.

The Court: It was perfectly legal. 573

Mr. Fuller: It is a certificate, the corporation has had it copyrighted.

The Court: When is it copyrighted?

Mr. Oeland: June, 1917.

The Court: An inference can be drawn.

Mr. Fuller: Two persons are named.

The Court: Who are the persons?

Mr. Fuller: Woodworth and Fisher, that would be an admission or an assertion.

574

The Court: I will exclude it, I think, it may be admissible.

Mr. Oeland: Can I have it marked for identification? I shall offer it a little later.

The Court: That may be admissible, Judge. I am inclined to think it is. That is the act of a corporation. It is admissible because it is a public document. Would it be evidence against anyone except the corporation?

Mr. Oeland: When I follow it up by certain proof, the corporation acts by certain officers, then I think it will.

575

The Court: Of course, you have the time fixed now of the printing of the book. Wouldn't add much to the Government's case, would it?

Mr. Oeland: I cannot say that it would. It just shows a circumstance.

The Court: I would not like you to construe what the Court says; I think I am clear, it is inadmissible.

Mr. Oeland: There is a point I wish; I do not want to transgress the rules. Here are four defendants shown connected with the publication and circulation of this book.

Mr. Sparks: You haven't shown circulation.

576

The Court: Shown they were shipped out.

Mr. Oeland: On order.

Mr. Sparks: No.

Mr. Oeland: That being established, it seems to me that their work in reference to the books, I believe he testified one read over the proofs, and check paid for it, Rutherford was out there, it seems to me that connects them sufficiently with any subsequent acts towards that unlawful distribution of it.

The Court: The corporation has it copyrighted. They recite said publication was

passed by such and such a person. There is the act of a third person. Had the third person made that statement it would not be admissible against these defendants unless connected with it. I think it is more prudent to exclude it.

Mr. Oeland: The recital in the book is that they read it.

The Court: Yes, they procured it to be printed. It is a co-operation, although I am not clear it is not admissible.

Mr. Sparks: Your Honor has not held that mere proof reading of this book is any evidence of any conspiracy, because they would include every proof reader of a daily newspaper or a book, employed on a salary to proof read a volume. That would not make him liable for an illegal act, the mere fact that his employer told him to sit down and proof read a manuscript.

578

Mr. Oeland: I also ask to be marked for identification the affidavit which accompanies it.

Mr. Sparks: The same objection.

The Court: Who made the affidavit?

Mr. Oeland. Mr. Hudgings.

579

The Court: Is he a defendant?

Mr. Oeland: No, sir.

The Court: It may be marked for identification.

Marked 5A and B for identification.

FRANK J. HITCHCOCK, being called as a witness, being duly sworn, testified as follows:

Direct-examination by Mr. Oeland:

Q. Where do you reside? A. Binghamton, N. Y.

580

Frank J. Hitchcock

Q. Have you any connection with the draft board there? A. Yes.

Q. What draft board? A. Local board for Division No. 2, Binghamton.

Q. Have you the papers filed by one named Dutcher? A. Yes.

Q. The original papers? A. Yes.

Q. Have you attached to that the affidavit of one Van Amburgh?

Mr. Sparks: I object to that.

The Court: It may be admitted.

581

Mr. Sparks: It calls for a conclusion. Exception.

Q. Have you? A. Yes.

Q. Will you turn to that place?

The Court: That is William E. Van Amburgh?

Mr. Oeland: Yes.

The Court: He is one of the defendants?

Mr. Oeland: Yes.

Q. When was that presented?

582

Mr. Sparks: I object to the form of the question, it assumes a fact not proven.

The Court: I will admit that.

Mr. Sparks: Exception.

The Court: I must say I don't approve of your leading the witness.

Mr. Sparks: I am not objecting on that ground. There is no proof the thing he designates is any paper executed by the defendants.

The Court: I will be liberal in that respect.

Mr. Sparks: Exception.

The Court: All these rulings on forms of questions you will note as a matter of discretion with the Court.

Q. When was that filed with your board? A. January 12, 1918.

Q. In connection with what papers was it filed? A. Questionnaire.

Q. Whose questionnaire? A. Arthur Dutcher's questionnaire.

Q. Will you detach that and let me have that? You have noted here filed January 12, 1918? A. That was done at the office.

Mr. Sparks: I object.

Q. It was presented then about that time?

584

Mr. Sparks: I object.

Q. Presented to the board in connection with Dutcher's papers? A. Yes.

Mr. Sparks: I object as a conclusion.

The Court: Admitted.

Mr. Sparks: Exception.

Q. Mr. Van Amburgh himself appeared before the board, did he not? A. I don't know.

Q. He did not appear before you? A. Not before me.

Mr. Oeland: We offer in evidence that.

585

Mr. Sparks: I object. No proof that the person executing that instrument is the defendant in this proceeding or action.

The Court: That is signed by William E. Van Amburgh.

Mr. Oeland: And acknowledged by him in Brooklyn.

Mr. Sparks: He is the defendant here. There is proof that the person who signed that affidavit is the defendant.

The Court: There should be some evidence of the identity of the person.

The Court: You say you never saw him there?

The Witness: No.

The Court: Which one of the defendants is Van Amburgh?

(Mr. Van Amburgh raised his hand.)

The Court: Will you look at the defendant who just raised his hand and see if he came before you, are you able to tell if he came in connection with this affidavit?

The Witness: No, I cannot say I ever saw him.

587 Q. You have with that file a transcript of certain testimony? A. Yes.

Q. Where did you obtain that? A. That was given me by the board before I left home; that was given to me to take along with these other papers when I left home.

Q. With the Arthur C. Dutcher papers? A. Yes.

Q. You are the secretary? A. No.

Q. What is the position you hold? A. I am the medical member.

Q. This is the transcript of certain testimony you have with the file? A. Yes.

Q. That is correct? A. Yes.

Mr. Oeland: We ask that that be marked for identification.

Marked Exhibit 7 for identification.

CROSS-EXAMINATION by Mr. Sparks:

Q. Exhibit 6 for identification was filed under the Selective Service Act under an application be made to the board for some deferred classification? A. I think so.

MRS. MABEL B. WERDER, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct-examination by Mr. Oeland:

Q. You are a stenographer and typewriter? A. Yes.

Q. Were you connected in any way with the board up there at Syracuse? A. I did their stenographic work.

Q. For the board? A. Yes.

Q. Do you know Mr. Van Amburgh? A. I took his statement. 590

Q. You recognize him in the court room? A. Yes.

Q. You took down in shorthand the statement he made to the board? A. Yes, sir.

Q. With reference to whose claim, classification claim? A. The claim of Mr. Dutcher.

Q. Did you take his statement down in shorthand? A. Yes.

Q. Did you subsequently transcribe that into type-writing? A. I did.

Q. I hand you Exhibit 7 and ask you if that is the transcript, the correct transcript of the testimony given my Mr. Van Amburgh at that time? A. Yes. 591

Q. Will you look at it, you gave it to the board, didn't you? A. Yes, that is the transcript.

Q. You have the original notes from which you transcribed it? A. Yes.

Q. Accurately transcribed that? A. Yes.

Q. What date was it given on? A. I don't know as I have the date, I got it out the same day. I did not have the day I wrote it out, but it was the same day that I took it.

Q. You can tell exactly the date by looking at your minutes? A. I don't know as I can. Is the date on there?

Q. I don't see any date. Can you give us the month or year? A. Either January or March, the last day of our Grand Jury.

Q. What year? A. This year.

Q. Either January or March? A. I can't recollect which Grand Jury, but I recollect it was the last day of the Grand Jury. I should think January.

Mr. Oeland: We offer it in evidence.

Mr. Sparks: I object on the grounds it is not one of the overt acts specified in the indictment. Also whatever proceedings were taken were proceedings of law required by the Selective Service Act and therefore could not be made an illegal act in doing what the law required a registrant to do and perform in order to secure to himself his legal rights.

The Court: What is the nature of the testimony?

Mr. Oeland: The nature of the testimony is, I should say I am not going to read it, I don't think it is material at this stage of the case. These people want to get away. As such times as it is material I want to have it. As to the rules relative to whether they have a right to claim exemption we expect to be able to prove there is nothing requiring them to claim exemptions in their religious doctrines, admitted or voluntary acts of the authorities. I don't know if it is material at this time. This lady and gentleman want to get away. If when it becomes material I want to have the point properly proven up.

The Court: I am inclined to think you have laid a foundation, for its being admitted whenever it becomes material.

Mr. Oeland: Maybe the case will take a turn and it will not become material. It is im-

material right now, these people want to get away.

The Court: And you should accomodate them. I will hold it is material. It is admissible unless the defendants show now it is not properly proven.

Mr. Sparks: On the correctness of the transcript of the minutes I don't think I would take a position of that kind. I do not believe there is any rule which permits the witness to say that a copy is a correct transcript of the stenographic minutes except a stenographer in court, and make it evidence. I think the only proper evidence is the original minutes themselves properly read into the record. There is no authority which permits a person not an official stenographer to transcribe shorthand minutes and say they are correct.

596

The Court: There are some authorities the other way. Is it a long statement?

Mr. Fuller: Ten pages.

The Court: Have you compared this transcript with your original shorthand notes?

The Witness: Yes.

597

By the Court:

Q. You say the transcript is an accurate translation of the notes? A. To the best of my ability so far as I know.

The Court: You feel sure it is accurately done?

The Witness: I do.

The Court: You recorded accurately the testimony of the person Mr. Van Amburgh?

The Witness: Yes.

Mr. Sparks: If the Court pleases, I think that she is self-qualifying in that. I think her

statement on that is a pure conclusion. The reason we admit the stenographic notes or copies of stenographic notes is under the theory the person who took them has been officially passed upon as competent in court, some qualification of the stenographer who took the minutes, in order to make him say he accurately transcribed the testimony, a young girl might come here with two weeks' experience in a business college and say she accurately transcribed it.

599

The Court: You may cross-examine her.

Mr. Oeland: I think we can introduce it the same as we could an Italian's statement, put on the same—

A. I have had nine years' experience in work of that kind.

Mr. Fuller: May I ask that she be held until—

The Court: No; you may go on and examine her now.

CROSS-EXAMINATION by Mr. Sparks:

600

Q. Who was present, Mrs. Werder, when you took these minutes? A. Members of the District Board.

Q. Regularly appointed members of the Local Board, you don't mean the District Board? A. Yes; I mean the District Board, the Appeal Board.

Q. The Appeal Board or Local Board? A. The Appeal Board.

Q. Who was present? A. Members of the board.

Q. Who were they? A. William Nottingham is the chairman, Mr. McCleary, Mr. Doolittle, Mr. Fowler and Dr. Goss.

Q. Were you regularly employed by the District

Board to take testimony? A. Yes, at any time they wanted a stenographer they would send for me.

Q. Are you a public stenographer? A. I am in the court house. I do all kinds of work of that kind.

Q. You report cases in court? A. In emergency I do.

Mr. Sparks: We raise no question on the accuracy of the transcript.

GEORGE WOERLEY, being called as a witness on behalf of the Government and duly sworn, testified as follows:

Direct-examination by Mr. Oeland:

Q. Where do you reside? A. Scranton, Pa.

Q. What is your age? A. 25 years.

Q. Was this book sold to you, I hold in my hand?

A. Yes.

Q. At what time? A. The 1st day of December.

Q. Last year? A. 1917.

Q. Do you identify this as the volume sold to you?

Mr. Sparks: Before this testimony is offered is there any claim that any one of these defendants sold it to him?

Mr. Oeland: No.

The Court: They printed it, wrote it?

Mr. Oeland: They published it, they put it in circulation, they are responsible for it.

Mr. Sparks: Assume that is so, assume somebody got a hold of it, that wouldn't bind these defendants.

The Court: It would have a tendency.

Mr. Sparks: I object. There is no connection shown.

The Court: They printed seven or eight hundred thousand of these, they were sold at random.

Mr. Sparks: I don't care whether it was eight million.

The Court: It don't make any difference whether it was eight million or only eight.

605 Mr. Sparks: If you are trying to hold an individual defendant for the sale of a particular book, you must establish the defendant himself authorized the sale of it or himself sold it. There is no proper connection between this sale and the defendant.

The Court: What would be the inference if the evidence showed they received 800,000?

Mr. Sparks: The jury in a criminal case is not allowed to speculate.

The Court: They are allowed to draw legal inferences.

Mr. Sparks: I press my objection.

The Court: I am inclined to admit it.

Mr. Sparks: You have admitted it?

The Court: Yes.

Mr. Sparks: Exception.

606 Q. Is that a copy you bought? A. Yes.

Q. You have registered under the Selective Draft Act? A. Yes.

Mr. Oeland: I offer this for identification.

The Court: Did you read the book?

The Witness: I read part, a few pages. When I read a few pages I threw it down and wouldn't read any more of it.

Mr. Oeland: I suppose I might as well offer that in evidence.

Marked Exhibit 8 in evidence.

CROSS-EXAMINATION by Mr. Sparks:

Q. Who first saw you about being a witness in this case? A. I was in Scranton; I had one of the books. The rest of my family all bought; they were about 100 sold in our neighborhood there.

Mr. Sparks: I move to strike that out as not responsive.

The Court: It is not responsive, that may be stricken out.

Q. Who first saw you about being a witness, is the question? A. I saw Mr. McHenry.

608

Q. You saw— A. About the book, I had the book, I wanted to know if that was one of the books. I had bought the book and I wanted to know if it was one of the books they were selling.

By the Court:

Q. Who is he. Mr. McHenry is the Assistant District Attorney at Scranton? A. Yea.

Q. You went to Mr. McHenry and asked some questions? A. No, sir.

Q. He came to you? A. I went and asked him about the book. I asked if that was the book they were selling.

609

Q. That he, McHenry was selling? A. No, Keeling, William Keeling, sold me the book.

Q. You knew Keeling was selling it? A. I certainly knew he was selling it, but that was before I knew it was an unlawful book.

Q. Somebody told you it was an unlawful book? A. I read it in the paper. When I read part of it I threw it down and said to the wife we ought not have it in the house.

Q. How many pages did you read? A. Two or three.

Q. You didn't read more than ten? A. No, sir.

Q. From reading those ten pages you decided it was an improper book to have in your house? A. yes.

Q. You threw it down. Where did you throw it? A. On the table.

Q. Is it still there? A. No, the book is here.

Q. How did it get into the possession of the District Attorney?

611 Q. (Repeating.) You gave it into the possession of the District Attorney? A. Yes.

Q. Do you know Mr. McHenry? A. No, before that day I took the book to him.

Q. You live in Scranton? A. Yes.

Q. Was Mr. McHenry the man who was active in Scranton in the prosecution of the men who were selling the book up there? A. As far as I know, I think he was.

Q. By having read ten pages of this book, and knowing nothing about any of the rest of the book, or what was in it, you volunteered to go and tell you had been sold a copy of the book? A. Yes.

RE-DIRECT EXAMINATION by Mr. Oeland:

Q. You had seen in the press comments about the book? A. Yes.

Q. You bought it before that time? A. Yes, I bought it in December, 1917.

Q. You didn't see these comments in the press until this year? A. Yes.

Q. After you saw that thing you went to see Mr. McHenry? A. Yes.

Q. In other words, you did not buy this book on account of agitation in the newspapers at all, you:

bought it before? A. No, I had it maybe two or three months before.

Mr. Sparks: In view of the fact that it affirmatively appears none of the defendants in this case sold the witness this book, I move to strike out all his testimony.

The Court: Denied.

Mr. Sparks: Exception.

RE-CROSS EXAMINATION by Mr. Sparks:

Q. The first pages you read were pages 1 to 10, is that correct? A. No, sir, I just took up the book and opened it and don't know what pages they were.

614

WILLIAM C. AUCHEY, being called as a witness on behalf of the Government, and duly sworn, testified as follows:

Direct-examination by Mr. Oeland:

Q. What is your occupation? A. Chief of Police of Weatherly, Pennsylvania.

Q. You were the Chief of Police there in that town? A. Yes.

615

Q. How long have you been? A. Seven years.

Q. When is it you first heard this book, "The Finished Mystery," in time, months, I am talking about, as near as you can? A. When I first heard of "The Finished Mystery"?

Q. Yes. A. About six months ago.

Q. Did you see or seize any of these volumes and if so where was it?

Mr. Sparks: I object as immaterial.

The Court: Admitted.

Mr. Sparks: Exception.

A. Yes, I seen them and seized them at Weatherly.

Q. Weatherly is a town there, how many population? A. About 3,000.

Q. How many volumes did you get there? A. Twenty-four.

Q. Were they similar to this volume I hand you, marked Exhibit B?

Mr. Sparks: I object as calling for a conclusion.

617 The Court: Because it calls for a conclusion it would hardly make it inadmissible. Very few things we say, questions we ask and answer but what call for a conclusion. We would not get very far if we did not ask questions and base our answers on conclusions. Say, "Did it rain on a given day? Yes." That is a conclusion.

Mr. Sparks: That is quite different from the question there.

The Court: No, he asks whether these books are the same.

Mr. Sparks: Yes, he looked at the cover.

The Court: He could look at the page, every line on the page, make it as certain as you like.

618 Mr. Sparks: Exception.

Q. Were the books you received the same as the volume you hold in your hand? A. Yes.

Q. How many did you say you got? A. Twenty-four.

Q. Is that of the number you got? A. Yes.

Q. Do you know of their being sold around there before? A. At that time?

Mr. Sparks: I object unless he saw it, it clearly calls for a conclusion.

The Court: That would be hearsay unless he was present.

Q. What was the date you seized the twenty-four volumes? A. March the 4th.

Q. 1918? A. Yes.

CROSS-EXAMINATION by Mr. Sparks:

Q. What judge signed the search warrant under which you seized these books? A. I did not have a search warrant.

Q. You had no search warrant? A. No, sir.

Q. You went into whose place? A. I met this gentleman on the street.

Q. Answer my question. You went into whose place? A. Nobody's place.

Q. You didn't go into anybody's place? A. No, sir.

Q. Did you ask them to turn these books over to you? A. No, sir.

Q. Did you demand he turn these books over to you? A. No, sir.

Q. How did you get them? A. Do you want me to go on and explain?

The Court: He wants you to tell how you got them.

The Witness: I simply went up to the man on the street and placed him under arrest.

Q. Without a warrant? A. Yes.

RE-DIRECT EXAMINATION by Mr. Oeland:

Q. You got the books? A. Yes.

RE-CROSS EXAMINATION by Mr. Sparks:

Q. And you took the books away from him? A. Yes.

RE-CROSS EXAMINATION by Mr. Fuller:

Q. Did you read anything in the books you took?

A. No, sir.

Q. Did you read this book just shown you? A. No, sir.

Q. You testified this was the same book as the books you took. You mean by that the binding was the same, the size was the same, the cover was the same? A. Yes.

623 Q. Do you know anything about the size of the book you had in your hand, or the books you took? A. No, sir.

Mr. Sparks: I move to strike out his testimony as incompetent, irrelevant and immaterial, a conclusion of the witness unsupported by any facts.

The Court: The testimony he gave on his direct-examination. The Court examined him on all points. It is for the jury to say whether it is the same or not. I hardly think the Court is justified.

624 Mr. Fuller: I found this morning I was not reading from the same book that the District Attorney was.

The Court: That may be, that is for the jury to say whether the books he seized are the same as the ones we have here.

Mr. Sparks: Exception.

The Court: You asked him if the title was the same, the print was the same, the same name of the author, that might eliminate the defect suggested.

RE-DIRECT EXAMINATION by Mr. Oeland:

Q You did not read the book? A. No, sir.

Q. Is the name the same? A. Yes, sir.

Q. The binding the same? A. Yes.

By the Court:

Q. Printed in the same kind of type, title on the back in gilt? A. Yes.

Q. The same style of book? A. Yes.

The Court: Perhaps he looked at the title page.

Q. Did you look at the title page of the books you took? A. Yes.

Q. Do you remember looking at any other page in the book? A. One page.

Q. Do you remember what page it was? A. No, I don't. I don't remember the number.

The Court: Look at the title, and see if the title is the same as those you took from the store?

The Witness: That is the same book? The Witness: Yes.

Mr. Sparks: I object to the form.

The Court: Admitted.

Mr. Sparks: Exception.

Q. Can you now recall whether or not you looked at page 247? A. Yes.

Q. Look at that page, 247, see if you recognize anything there you saw in the other book? A. Yes.

Q. The same reading matter on that page that you read from the other copies? A. Yes.

RE-DIRECT EXAMINATION by Mr. Fuller:

Q. Didn't you tell me a few moments ago you did not look inside the books? A. No, sir, I told you I did not read the book.

Q. Didn't you tell me you didn't read any of the book? A. No, sir, you asked me whether I read the book. I told you no.

DANIEL T. McKELVEY, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct-examination by Mr. Oeland:

Mr. Fuller: Did your Honor deny the motion to strike out the testimony of the last witness?

The Court: Yes.

Mr. Fuller: Will you let me have an exception to the ruling?

The Court: Yes.

629

Q. What is your business? A. Captain of Police, Weatherly Pump Machinery Company, Special Agent of the Lehigh Traction Company & Electric Company, DuPont Silk Mills and Shirt Factory, Hazleton, Pa.

Q. Did you see, either in the early part of this year or the latter part of last year a book known as "The Finished Mystery"? A. Yes.

Q. What were the circumstances under which you saw it? A. I had a telephone call from Weatherly, Pa., that the headquarters weren't in Hazleton.

Q. The headquarters for what? A. For the books circulated in our district.

630 Q. What did you do? A. I went to the home of William Kemmel, Chapel Street, City of Hazleton, talked to him, and he handed me over eight volumes.

Q. Of what? A. "The Finished Mystery."

Q. Look at Exhibit 8 which I hand you. Is this a copy of the eight books, or is it the same book as the eight you got?

Mr. Sparks: Maybe page 247 will help you better.

Mr. Oeland: Look at page 230 and see if that will.

The Witness: Yes.

Q. Is there anything there that you identify the book as the same as that? A. Yes.

Q. What is it, I won't go into the written matter on that page? A. 230, 247 I think it is, "Comes out of the mouth of the dragon."

Q. What did you do with the books? A. Took them in my office in the Myrtle Bank Building, Hazelton.

Q. What time was that? A. Between nine and ten o'clock at night.

Q. What date, what month, what year? A. March 4th.

632

Q. 1918? A. Yes.

Q. Did you subsequently see others of the same volume? A. Yes.

Q. When? A. The same night.

Q. Where and how many? A. Ruben Platz, two; Ben Kemmel, four books.

Mr. Sparks: I object. It does not connect the defendants in any way, this testimony given by this witness.

The Court: It tends to show the publication of this book, strewn over the country.

Mr. Fuller: How does the fact they were seized show they were published?

633

The Court: They were seized in places where they weren't safe.

Mr. Sparks: You have left this in against every defendant. They haven't shown these defendants had anything to do with the publication of the books, the printing or anything.

The Court: If they do not I will strike it out and discharge those defendants that did not.

A. McCleary, P Street, 100 books; Jonathan Davis, Vine Street, 32 books. Following that I had an article published and I had returned to my office somewhere in the neighborhood of 300 books.

The Court: Returned by whom? Strike that out about the article in the paper.

The Witness: By people in our district.

Q. What district is that? A. The lower end of Luzerne County, Pa.

The Court: Did you return more than one copy?

The Witness: Davis brought us back on March 5th in the neighborhood of 30 copies.

The Court: Was he a merchant?

635 The Witness: No, a member of the Russell Association at Hazelton. The books he had sold. He went out and collected them in himself.

Mr. Fuller: I object to the books he had sold.

636 The Court: That would be hearsay, that may be stricken out. Perhaps I should say when the Court strikes out any testimony it means you should cast it out of your minds, and not consider it in evidence in the case. You should be very careful, very careful, not to consider anything that is stricken out. That is almost impossible in a trial to avoid some little things dropping in that are not strictly legally admissible. Perhaps I do not need to say this, but I do because I do not know how much experience you have had, and I ask that you be patient with me the same as you did yesterday.

Mr. Oeland: Your Honor just strikes out the part where he says he sold, not the part about returns?

The Court: Yes; not the part where he said—just another word. The person who returned his books to the witness told him he was around collecting them. When he told that he was not under oath. These defendants did not

have an opportunity to cross-examine him. That is what we call in law hearsay evidence and it is not admissible.

Q. You spoke of that being 30 of the 300 returned to you? A. Yes.

Q. Were they returned in bulk or one or two volumes at a time? A. One or two.

Q. The others? A. Yes.

Q. How large a district is that, how large according to population? A. The city of Hazelton is somewhere in the neighborhood of 32,000. West Hazelton Borough borders us, something like 6,000; Hazelton Township, surrounding the City Hazelton, between eight and ten thousand; Freeland Borough, nine miles away, something like 6,000; Foster Township, four miles of Hazelton, two or three thousand; Borough to the south, six miles away, has about 4,000.

638

Q. I did not ask you this question, these 300 you identified them as being the same volume as Exhibit 8? A. Yes.

CROSS-EXAMINATION by Mr. Sparks:

Q. Who did you receive your first information from to take action in reference to these books? A. The Department of Justice, or I would say the United States District Attorney or Assistant District Attorney at Scranton.

639

Q. Who is that? A. I disremember his name, he works under Mr. Barnett.

Q. Mr. McHenry? A. No, he is not an Assistant District Attorney.

Q. He does not hold that exalted position there? A. No.

Q. You received some word from the United States Attorney to seize certain volumes of "The Finished

Mystery" from the possession of some individual? A. To seize all "The Finished Mysteries" I could lay my hands on.

Q. That came from a government official? A. Yes.

Q. The United States District Attorney? A. The Assistant United States District Attorney.

Q. The Assistant District Attorney for Pennsylvania? A. For our district.

Q. He instructed you to go to the home of every individual you heard of who had a copy of "The Finished Mystery" and seize it? A. Yes.

Q. And did the United States District Attorney give you a search warrant to do that? A. No, sir.

ROY C. MACHENRY, being called as a witness on behalf of the Government, and duly sworn, testified as follows:

Direct-examination by Mr. Oeland:

Q. What is your business? A. I am a Special Agent, Department of Justice, Deputy United States Marshal for the Middle District of Pennsylvania, and Special Assistant United States Attorney for the Middle District of Pennsylvania.

Q. Have you had any connection with the investigation of this book called "The Finished Mystery"? A. Yes.

Q. When did that commence? A. About March the 1st, 1918.

Q. Just what did you do? A. The first connection I had with it was to cause other people to make investigations in connection—

Mr. Sparks: I object. I don't see how it is competent to prove a conspiracy.

Q. Just state what you did.

Mr. Sparks: I can't see what he did will establish a conspiracy. The conspiracy is established by the acts of the defendants, not by the actions of some other person.

The Court: What he did may tend to show what acts the defendant did.

Mr. Sparks: Exception.

Q. On March 2nd, 1918, I went to Wyoming, Pennsylvania, where several men had been arrested for selling copies of "The Finished Mystery." That is the first time I had ever seen the book. 644

Mr. Sparks: It is perfectly clear this is not going to tend to establish a conspiracy on the part of these defendants.

The Court: How is it material whether anyone was arrested for selling these books?

Mr. Oeland: It is not, I am leading up to it.

The Court: Put a leading question. I will strike out what he said about somebody being arrested. You may use leading questions.

Q. What did you do in reference to this book yourself? A. Looked at the book, examined it very closely. 645

Q. Where did you see it? A. Wyoming, Luzerne County, on March 2nd.

Q. What was the next step you took?

Mr. Sparks: I object as not material, not binding on these defendants what action he took.

The Court: The fact is he examined the books.

Mr. Sparks: That don't establish the conspiracy.

The Court: Many things are admitted preliminarily. The fact that he examined the books, it is proper for the jury to know that.

Mr. Sparks: Exception.

A. I examined the preface of the book, and I turned to that portion of the book, the numbers we had this morning in the record in regard to the preparation by Brother C. J. Woodworth and Fisher and discovered they were from Scranton, and I saw Mr. Clayton J. Woodworth, the defendant over there.

647

The Court: Which one is Woodworth?

The Witness: The gentleman standing up. Mr. Fisher is the gentleman with the blue tie standing up now I saw Mr. Woodworth on the morning of March 1st, 1918, at the United States Marshal's office. He told me he wished to see a man who had been arrested for selling "The Finished Mystery." I asked him to come into the United States District Attorney's office. I told him my name and that I was a Special Agent of the Department. Then I said, "I understand, Mr. Woodworth, you wrote a portion of the 'The Finished Mystery.'"

648

Mr. Sparks: I object to anything the defendant said on this occasion on the ground that the witness did not warn him that whatever he might say would be used against him.

The Court: That is not necessary.

Mr. Sparks: Exception.

A. He said, "I wrote the portion of the book on Revelations, and Mr. Fisher wrote the portion on Ezekiel."

Mr. Sparks: I object to what he said about Mr. Fisher.

The Court: That would not be evidence against Mr. Fisher, but evidence against Mr. Woodworth.

Mr. Oeland: I may become evidence against Mr. Fisher after we develop the case.

The Court: This would hardly be an act done by Mr. Woodworth in furtherance of the conspiracy. It is more of a narrative. His declarations would not be admissible against the others unless made in pursuance of the conspiracy. It is established a narrative is evidence only against himself. We will regard it that way unless some different ruling is asked and made. 650

Mr. Sparks: Exception.

A. I asked Mr. Woodworth how much of the writings of Pastor Russell made up this book. He said if there were initials D or certain things in there in quotation marks they indicated they were written by him. I said, "How about the part that has no quotation marks?" He said, "That part from Revelations, without quotations, was composed by me." I read him 247, and read him a paragraph which commences, "Come out of the mouth of the dragon," and which ends, "Hail it as a duty commanded by the Lord in Heaven." I said, "Who wrote that, Mr. Woodworth?" He said, "I wrote that, I composed it." I said, "When did you write the book?" He said, "I commenced to write it during December, 1916, and I finished it during February, 1917." Then I turned to the portion by the Rev. John Haynes Holmes, pages 250 and 251, and also the portion on page 249 with regard to the first expenditure of the United States Government. I said, "Aren't you mistaken about those 651

dates, Mr. Woodworth, in regard to those times?" He said, "Yes. Those things I put in after we entered the war." I said, "Where was the book printed?" He said, "Hammond, Indiana." I said, "Did you correct the proofs?" He said, "Yes." I said, "When was it?" He said, "I think June 28th, last year." I said, "Where did you correct?" He said, "I went to Hammond, Indiana, and corrected the proof there." I said, "Did Mr. Fisher go along?" He said, "No, Mr. Fisher did not go." And then Mr. McCourt, the regular Assistant United States Attorney came in and he also read portions on page 247, "Come out of the mouth of the dragon," to Mr. Woodworth and asked him what he meant by writing that. He said, "I had in mind the militaristic spirit of Germany putting that fact on the boys there." He said, "It don't mention the boys of Germany in there, it refers to all governments." He said, "Why did you write this?" He said, "You put me in a very difficult position." He said, Captain McCourt said, to Mr. Woodworth, "Do you mean to say the boys, the young men, entering the army are murderers at heart, and they are shedding blood of their fellowmen as murderers and that patriotism is really murder?" Mr. Woodworth said, "You put me in a difficult position." That was practically the end of the conversation I recall at present, but Mr. Woodworth—I had lunch with Mr. Woodworth that day, while he was there in custody.

Q. Were you there? A. I was there, Fisher was there—no Fisher was not there—Woodworth and I had a talk about the book, and in the course of that he said, "You know I have been an advertising man, and used to writing things with a punch. Maybe I put it too strong." I made some facetious remark about that, they probably would be immaterial if I gave it. I said, "When you wrote that with a

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punch you had the brass knuckles on." About ten minutes after I got through talking to Mr. Woodworth, Fisher came to the office. I said, "How do you do, Mr. Fisher." I told him my name, that I was a Special Agent of the Department of Justice. I said, "I understand you wrote a portion of 'The Finished Mystery,' dealing with Ezekiel?" He said, "Yes, I wrote that."

By Mr. Sparks:

Q. Did you tell him the book was under investigation and warn him and tell him what he said would be used against him? A. We had a talk about Stanley Young being arrested for selling it. 656

Q. You didn't say anything like that, warn him that whatever he said might be used against him? A.

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The Court: It was not necessary to warn him in the least.

Mr. Sparks: Exception.

A. I talked to Mr. Fisher in regard to it. He said he had written that portion of the book dealing with Ezekiel and that he and Brother Woodworth as he called him, compiled the book together, and a great deal was taken from the writings of Pastor Russell. That's about all the conversation I had with Mr. Fisher. I also omitted to say in regard to Mr. Woodworth that in the conversation he said that the book had been copyrighted about July 15th and he got his first copy of the books July 17, 1917, and on August 1st he had 100 copies sent him and he had sold and distributed those with the exception of a few he had home and given his friends. 657

Q. Did you have any talk with Mr. Fisher about the number of volumes? A. Mr. Fisher said he received I think, 100 copies. I know he said he had sold, or

given away to his friends, 30 copies commencing about August 1st.

Q. Did you take any action to seize any of these books? A. No, not the books themselves. I took possession of quite a number of copies brought in to me by various members of the state police and others. I think I took two or three. This is one I have in my hand.

Q. Mr. Fisher never said anything about his correcting the proof? A. No, he said he did not.

Q. Did you draw their attention to the date, June 25th, 1917, at any time? A. Not at any time.

Q. There is a date, June 25th? A. Yes, page 366, some chapter on the Heavenly Bridegroom.

Q. That was not in the list of quotations I expected to use. I ask to offer that particular date in view of the fact that it was not called to my attention at the time. I would like to call attention to the date. Some of the matter I am not going to use just the date.

The Court: That would tend to show when the book was printed, it must have been printed after that time. You don't object to that, of course, do you? You may put that in as tending to show when the book was printed.

Mr. Oeland: We offer in evidence the date at the bottom of page 366 in Exhibit 8, in evidence.

The Court: What is the date?

Mr. Oeland: June 25, 1917.

The Court: That may be admitted.

Q. Did you take any action under the search warrant? A. Yes, about March 25th, 1918, I assisted Mr. Seidler in the execution of the search warrant.

Q. Where? A. At the house of Woodworth and Mr. Fisher. Mr. Woodworth lived in Dunmore, Pennsylvania, that is a suburb of Scranton, and Mr. Fisher lives in Scranton, not so very far away.

Q. Did you seize certain papers from Mr. Woodworth? A. Yea.

Q. I hand you two purported letters, February 21st, 1918, and one December 7th, 1917, and ask you if those were two letters you received from Mr. Woodworth?

Mr. Oeland: I want to identify them.

The Court: I think it is a pretty long time to sit through two hours at a time. We shall start a practice of taking five minutes in the forenoon and in the afternoon. We will take ten minutes on this occasion.

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Recess for ten minutes taken.

After ten minutes the court met pursuant to adjournment.

The Court: These may be marked for identification (referring to the two letters in the last question).

Mr. Oeland: May I speak to the witness about a question; I don't know if it is admissible or not.

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The Court: Yes.

Q. I hand you two papers and ask you if you identify those as letters you received from Mr. Woodworth under the search warrant?

Mr. Sparks: I object to the form of the question, took from Mr. Woodworth.

Mr. Oeland: Received.

Mr. Sparks: Seized under the search warrant.

A. Yes, Mr. Woodworth handed them to me.

CROSS-EXAMINATION by Mr. Sparks:

Q. Didn't Mr. Woodworth, Mr. MacHenry, fix a definite day in February, 1917, when he finished the manuscript? A. I think he said the latter part of February. I know it was February, but I would not be sure about the date.

Q. The only parts he told you were finished after that month was the quotation from John K. Holmes on page 251. A small portion on page 249 I refer to also, the bottom, the last paragraph.

665 Q. The bottom of page 249 which refers to the expenditure of the United States Government of seven billion dollars? A. Yes, it runs over to page 250.

Q. It runs over the page, four lines on page 250? A. Yes.

Q. With those exceptions he said his portion of the work was printed February, 1917? A. Yes, sir.

Q. Does this date, June 25th, given in the book, refresh your recollection as to the time when he said he completed the proof? A. No, that had nothing to do with it, that I did not discover.

Q. Have you any recollection when he said he finished the proof? A. June 28th, 1917.

666 Q. He didn't claim he finished all the proof on the 28th? A. He said he corrected the proof on that date.

Q. Corrected it all? A. He said he was out there correcting the proof on that date.

Q. Did you understand him to say he finished the correcting of the proof on the 28th of June? A. No. I didn't understand it was finished. I understood he was correcting it.

ALBERT L. SISSON is called as a witness on behalf of the Government, and being duly sworn, testified as follows:

Direct-examination by Mr. Oeland:

Q. Where do you live? A. Binghamton, New York.

Q. Do you know William C. Dutcher? A. I know Arthur C. Dutcher.

Q. How long have you known him? A. About twelve years.

Q. He was in the draft age and before the board? A. Yes, sir. 668

Q. Did you purchase a volume from him? A. I did.

Mr. Sparks: I object to that as immaterial and not binding on these defendants.

The Court: Admitted.

Mr. Sparks: Exception.

Q. You have known Mr. Dutcher some time, haven't you? A. About twelve years.

Q. What has he been doing during that time? He was a National Guardsman some time before the selective draft, wasn't he? A. Yes.

Q. How long was he in the National Guard? A. That I don't know. 669

Q. How many years ago was that? A. That I wouldn't say definitely. I just know he was formerly a member of the National Guard.

Q. Prior to 1917? A. Yes, prior to that time.

Q. Can you identify this book as the book of the same kind or similar the one you bought from him?

The Court: You use the word similar; that might mean somewhat the same. Use the word same.

Mr. Oeland: I will correct that.

A. It would be impossible for me to say every word was the same, but the binding is the same, the book I purchased was just like that as far as I can tell by reading some things in here I remember as having been in the other book.

Q. What date was it when you purchased it? A. The date he took my order for the book I couldn't give you definitely, but the day I got the book he delivered it to me was January 8th this year.

Q. 1918? A. 1918.

671 Q. Did you see anything in there you identified as the same as in the book you purchased?

The Court: Is the title page the same?

The Witness: The title page is the same. These drawings and charts are the same. This part that was read this morning was the same, I recognized it as it was being read, and I recognize it here.

Q. To the best of your opinion it is the same volume of the same book you bought? A. Yes.

Q. What is your age? A. Forty-one.

Mr. Oeland: I had better identify that in some way.

672 Q. Your opinion is it is the same as 3A in evidence?
A. Yes.

HANS INSBERG, being called as a witness on behalf of the Government and duly sworn, testified as follows:

Direct-examination by Mr. Oeland:

Q. What is your age? A. Twenty-eight.

Q. Where are you now? A. In Camp Devens.

Q. Been drafted? A. Yes.

Q. You have refused to put on the uniform?

Mr. Sparks: I object to this line of testimony, not binding on these defendants; not connected in any way with the crime alleged in the indictment.

The Court: Are you going to show he read the book?

Mr. Oeland: Yes.

The Court: Take that first.

Q. Are you acquainted with the book called "The Finished Mystery"? A. Yes.

674

Q. I hand you the book, Exhibit 8, and ask you if you have seen the same book?

The Court: And read it?

A. Yes.

Q. When did you see it? A. Last July, July last year, 1917.

Q. What time in July? A. It was about the end of July I guess.

Q. 1917? A. Yes.

Q. Where did you get it from? A. Sent from the Brooklyn Tabernacle, from the Watch Tower Bible and Tract Society.

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Mr. Fuller: I object, hearsay.

The Court: Why?

Mr. Fuller: "Where did you get it from? They sent it." How does he know?

The Court: Ask him.

Mr. Fuller: Calls for a conclusion.

The Court: The Court couldn't say he don't know where it came from.

Mr. Fuller: Nobody could. "Who sent it? Where did it come from?" That is a conclusion.

The Court: That conclusion doctrine I don't take much stock in.

Mr. Fuller: Exception.

Mr. Sparks: Exception.

Mr. Sparks: I move to strike out the answer?

The Court: Denied.

Mr. Sparks: Exception.

677 Q. First you said the Brooklyn Tabernacle and then you said the Watch Tower Bible and Tract Society? A. Yes.

Q. How many did you get? A. One.

Q. How did you get it? A. They sent it.

The Court: Did you ask them for it?

The Witness: No.

The Court: How do you know it came from this Tabernacle?

The Witness: It said so. Said it was sent from the Tabernacle.

The Court: Printed on the outside cover to that effect?

The Witness: Yes.

678 The Court: That makes it admissible, doesn't it?

Mr. Sparks: No.

The Court: It is some evidence?

Mr. Sparks: Not a bit.

Mr. Fuller: Very little.

Mr. Sparks: I might send a letter to your Honor, with my name to it, Frederick W. Sparks, that is no evidence I sent it.

The Court: If we had evidence you had eight or nine hundred thousand of those letters, and I had it postmarked, and your label on it.

Mr. Sparks: Our Circuit Court of Appeals has not, in 213—

The Court: I would like to see it. I don't think I would follow it.

Mr. Sparks: Then it is hardly worth while showing it to your Honor.

The Court: Temporarily I will admit it.

Mr. Sparks: Exception.

The Court: Yes, it is a question of fact for the jury.

Q. Did you pay for it? A. Yes.

Q. How did you pay for it? A. I paid as it stated, the price sixty cents. (80)

Q. Who did you pay for it? A. I paid for "The Finished Mystery."

Q. How did you pay for it, did you send money by mail? A. Yes.

Q. You sent the money by mail. To whom did you send it? A. Watch Tower.

Q. Brooklyn? A. Yes.

Q. You had not written for the book before? A. No, I did not write before, but we expected it as I read these six volumes.

(Stenographer repeats answer.)

(81)

(Answer continued.) That the Lord will provide the 7th volume, the book called the 7th Mystery.

The Court: You expected it for that reason?

The Witness: Yes.

Q. But you paid for it? A. Yes.

Q. When did you go to Camp Devens? A. Last October, October last, 1917.

Q. You got this volume before you were drafted? A. Yes.

The Court: In view of what he said about sending the money back, paying for it, do you insist on your exception?

Mr. Sparks: I still insist upon my objection for the reason that this book was sent to him prior to his going to camp. I can't see how it is material. I was going to move to strike out his testimony on that ground.

The Court: Of course, the basis of my inquiry was because he having paid, sent the money, that would be further evidence tending to show this circulation.

Mr. Sparks: I don't want to by act or mind seem to consent to evidence I think is incompetent, and my withdrawal of the objection and exception—

The Court: That is very probable.

Q. You say you went to Camp Devens in what month? A. October.

Q. 1917? A. 1917.

Q. Have you procured any more volumes since that time? A. Yes.

Q. How many? A. About a dozen.

Q. When did you get those?

Mr. Sparks: I object, immaterial, not binding on these defendants what he did. He is not one of the conspirators.

The Court: He is one of the military forces of the United States.

Mr. Sparks: I understand what he does may bind him; the military authorities might deal with him, but the Court cannot deal with us for what he does.

The Court: They led him to these acts.

Mr. Sparks: Assume he bought one of those books, and by reason of reading anything in

it he came to the conclusion he should not do military service and he went and spread propaganda, do you think his dealings would lead back to us?

The Court: I certainly do. You have set that in motion you would be bound by the force it takes if you published 800,000 for sale and distribution.

Mr. Sparks and Mr. Fuller: We take an exception.

The Court: There is no ruling, nothing binding. This is the Court's view. You can have an exception. 686

Mr. Sparks: I made an objection to the question.

The Court: That he bought ten or twelve?

Mr. Sparks: Yes.

The Court: I will let that stand.

Mr. Sparks: Exception.

Q. When did you buy this, how did you procure it? A. I sent to Brother Anderson in Boston.

Q. Did you send the money for this? A. Yea.

Q. You had this in camp with you?

Mr. Sparks: I take one objection and exception to all this line of testimony. 687

The Court: Yes, it may apply to all books he purchased and distributed as to all the defendants without being repeated.

Q. Did you get them all at one time? A. Yes, I got all at one time.

Q. Where did you send the money? A. I sent to Mr. Anderson to Boston.

Q. What did you do with the books when you got them? A. I believe I was overjoyed with the truth in the books, I was anxious and zealous everybody would

see the truth, and, therefore, I was zealous to help along the poor people, so their eyes might be opened.

Q. I asked you what you did with the books? A. I left some in the Y. M. C. A.

Q. Whereabouts in the Y. M. C. A.? A. There is about five or six in each camp.

Q. What camps? A. At least at Camp Devens there are about six there.

Q. When did you leave those there? A. I left them among the other books, so the boys could have a chance to read and rejoice over the truth.

689 Q. I asked you where did you put them? A. I left them with the other books.

Q. In the library? A. Yes.

Q. How many other books did you put in the library? A. Nine volumes.

Mr. Sparks: This is all under my objection and exception.

The Court: Yes.

Mr. Fuller: Devens Library or Y. M. C. A.

Q. Did you put any in Hut 29 of the Y. M. C. A.? A. I don't remember.

690 Q. You say you put five or six there, what did you do with the others? A. Put nine altogether.

Q. Where? A. Different places.

Q. Tell the jury where you put them. You said six in the Y. M. C. A. at Camp Devens. Where did you put the others? A. I don't remember exactly; at least two or three in each; I don't know exactly the location or numbers, because it was a few months ago. I can't tell you how many I put in each place.

Q. What other places did you put them in? A. Y. M. C. A. Building. That's the building called the Young Men's Christian Association in camp; that's the buildings where religious services are held every Sun-

day, and where soldiers can write letters, read books and spend spare time. So we have six of them.

Q. Where else? A. In the library, two in the library.

Q. Two in the library? A. Yes.

Q. Six in the Y. M. C. A.? A. Seven, I guess, in the Y. M. C. A.

Q. You didn't put them anywhere else? A. No, sir.

Q. Do you know a man named Nicita? A. Yes.

Q. Did you get any copies from him? A. No, sir.

Q. Where did you see him first? A. When I was put in the Second Separate Company then I met him. 692

Q. When was that? A. All conscientious objectors were put in a separate place.

Q. I understand that. I asked when you met him? A. The first time I met him in camp. That's the first time.

Q. What time? A. January 15th, this year.

Q. You have never put on a uniform? A. No, sir.

Mr. Sparks: I object; immaterial. His actions are not binding on these defendants.

The Court: A doctrine set forth in a book—

Mr. Sparks: He has a right under the law to do that. 693

The Court: That is true. These defendants did not have a right under the law to publish anything which would lead folks to take that position, or encourage them to take this position.

Mr. Fuller: We want to take an exception.

The Court: Do you claim they did? Do you claim these defendants had any right to publish anything to encourage, or tend to encourage others to object to becoming soldiers.

Mr. Sparks: We make no claim to your Honor's question. Simply take an exception.

The Court: There being no claim made by the defendants, and no statement by the defendants why the statement is not accurate, the statement may stand subject to your exception. You cannot lead the Court to make error here. If error is committed you may state the ground of your objection.

695

Mr. Fuller: The statement is, I disagree with your Honor's question; as I understand you to make it your Honor has stated the defendants had no right to publish a book which might lead soldiers to decline to perform their legal duty. I think that statement would be—

The Court: We are not grinding so fine as that. A person intends the natural consequence of his act. If you publish a book, set forth a doctrine, that it is wrong to become a soldier, the only reasonable conclusion that can be drawn from that is that you would intend folks to believe what is printed. You would hardly be expected to draw the inference that the authors who printed the book expected the members of the military forces to believe the opposite set forth in the book.

696

Mr. Sparks: My objection called for a legal ruling upon the question put to the Court. Instead of getting a legal ruling from the Court on my objection I got a question from the Court on my personal opinion on the law, and then a statement of your Honor's interpretation of the law, which was uncalled for by my objection. Simply a ruling. That's what I am taking an exception to.

The Court: You may have an exception. You may proceed. Did he read the parts?

Q. You read the book, did you? A. Yes.

Q. Did you read pages 247 to 253? A. Yes.

Mr. Sparks: I must take an exception to your Honor's suggestion to what part he should refer to.

697

The Court: The Court has power to make suggestions. You are proceeding under exception.

Mr. Sparks: The Court to suggest before counsel has finished what should be brought forth, and counsel calls attention to the particular part of the book, it only accentuates to the minds of the jury that the Court believes that part is particularly objectionable. That is what I object to. I take an exception.

The Court: That is grinding it pretty fine. Of course, gentlemen, you are the judges of the facts in this case. That is, questions of fact are for you to decide, and it makes no difference what the Court thinks about the questions of fact, and it would be almost impossible to try this case without many suggestions, many statements from the Court. It will be so when the defendants come to put in their evidence. If the Court says anything from which you think you can draw an inference as to what the Court thinks, your decision should be on the facts in this case, you are to disregard it. It makes no difference what the Court thinks about it. I wish you would keep this particularly in mind. You are the supreme judges of the facts in this case, and it will be the furthest from my intention to have the slightest influence with you as to your decision on the facts. You keep this in mind. I shall be as careful as I can, Mr. Sparks. I always caution a jury in this respect before the trial is finished, and the first thing here is to try this case absolutely fairly between the Government and the defendants, and let the

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Hans Insberg

jury decide the facts. That is going to be my greatest ambition during this trial. This suggestion here I think is well enough. Your exception is to my calling attention to a part of the book introduced in evidence. That would be to avoid error. It might be error to call his attention to other parts.

701

Mr. Sparks: I don't think he had any intention to call attention to other parts. We are working under a stipulation, working under pages in evidence, and such learned counsel would not call attention to any other part, and there was no fear any other part of the book would slip in; in fact we have no fear any other part will be attempted to be introduced by the Government, because they know there is not a single thing which they have rooted out of the book which they could possibly construe or twist to their purpose, so there is no other part—

Mr. Oeland: I hope your Honor will instruct the jury that is not evidence.

The Court: The jury has been told that many times. You may proceed.

702

Q. Did you read this part of the book? A. Yes

Q. Where it says "A certain delusion, best described by the word patriotism, in reality murder, the spirit of the very devil"?

Mr. Sparks: I object, immaterial.

The Court: Overruled.

Mr. Sparks: Exception.

Q. Have you read the portion of the book containing the quotation I enumerated? A. Yes.

Q. Did you read "The war itself is wrong. Its prosecution will be a crime. There is not a question

raised, an issue involved, a cause at stake, which is worth the life of one blue jacket on the sea or one khaki coat in the trenches"? A. Yea.

Q. You read the pages containing the quotations I have read to you? A. Yea.

The Court: Did you believe those things?

Mr. Sparks: I object to his beliefs.

The Court: When you read that did you believe those statements to be true? Answer yes or no.

Mr. Sparks Exception.

704

The Witness: I cannot answer in one word. I will have to explain it.

The Court: Then I will have to withdraw the question. It seems you could answer that. Give us an answer yes or no, please.

The Witness: It depends from which standpoint we take it.

The Court: From the standpoint you took it.

The Witness: Yes, from a Christian standpoint—

The Court: You said yes?

Mr. Sparks: I think he should be allowed to finish his answer.

705

Mr. Oeland: He didn't ask why.

The Court: It is under your exception. You may ask him. The Court having asked a question you objected to and an exception, unless you waive your objection and exception. If you withdraw your objection and exception I will allow him to state. I will strike out all he said. If the defendants desire him to go on he may do so, but as long as they have evidence under exception the Court thinks it is hardly warranted. To do so might be an error.

Mr. Sparks: I take an exception to the

Court inviting us to withdraw our exception in a criminal case.

Q. You said you went through the camp.

The Court: You will also note that the counsel did not state wherein there is any error in that.

Mr. Fuller: I want to say if the witness said yes. "Do you believe that to be true?" "Yes, I believe from a Christian standpoint." Has your Honor stricken out the word "Yes"?

707 The Court: From a Christian standpoint.

Mr. Fuller: Your Honor has stricken out anything that will follow that. The witness's answer is not complete unless he finishes his qualification. That is the particular reason for objecting to that question. This is not capricious, I doubt if anybody on the face of the earth believes literally—

The Court: Do you take the same position as Mr. Sparks?

Mr. Fuller: Yes.

The Court: Then you may finish your answer.

708 The Witness: From a Christian standpoint I believe the Bible teaches Christians should be exempted from military. We cannot have a Christian engaged in warfare, and as the Bible explains, if a Christian lifts up arms and fights for this Government in that instance he will be fighting against God, and therefore a Christian fully consecrated to God should be exempted from all military service, because it would be against his conscience and the word of God. But that does not mean a worldly man should not engage in warfare, because he has not made a covenant with God, and from one standpoint it would be good and proper for

him to take up arms and defend the right cause, what he believes to be the right cause.

The Court: In view of what he said about believing the statement in the book, I will allow you to show he refused to do military service.

Q. You went in camp October, 1917? A. Yes.

Q. You have refused to put on the uniform?

Mr. Sparks: I take an objection to that.

The Court: Yes.

Mr. Sparks: Exception.

710

A. I am suspicious against the clothes if I have any uniform or my own clothes.

Q. Did you refuse to put on a uniform? A. The question was not pressed upon me if I wanted a uniform. The question was did I want to drill.

Q. Did you refuse to put on a uniform? A. Nobody asked me to put a uniform on.

Q. Have you ever had on a uniform? A. No.

Mr. Sparks: I object, as immaterial.

The Court: Overruled.

Mr. Sparks: Exception.

Q. You say you were not requested to put on a uniform by any of the officers? A. No, sir. 711

Q. Weren't you offered a uniform by the Quartermaster Corps? A. No, sir.

Q. They never offered you a uniform? A. No, sir.

Q. Have you done any drilling? A. No, sir.

Q. Have you refused to drill? A. Yes.

Q. Have you refused all work that has been asked of you, or commanded of you?

Mr. Sparks: I object, on the ground, first, that what he has done according to his conscience is not binding upon these defendants, that at the present time no conspiracy has been

shown, in the second place, no connection between any of the defendants and this witness, and, third, upon the ground that the law itself expressly provides in a case of this kind that no military authority should compel him to do or serve in any military forces to be raised under the Selective Service Act. There is an express provision of the law itself. You are trying to impeach this witness for doing something which the law says no person shall do, what the law says he shall not do.

713

The Court: Did you say impeach him?

Mr. Sparks: Yea.

The Court: This is not impeaching him.

Mr. Sparks: Not in the sense your Honor uses it, in the sense you make out of your own witness discredit him before the jury.

The Court: It is no discredit showing what he did, what course he has taken, what attitude.

Mr. Sparks: Unless your Honor directs the jury he had the right to refuse to do military service, then you discredit him before the eyes of the jury. I ask your Honor to instruct the jury this man, under the Selective Service Act, if a conscientious objector, could not be compelled to serve in a military force, organized under the Selective Service Act.

714

The Court: Proceed.

Mr. Sparks: I take an exception to your Honor's refusal to charge.

Q. What work have you done? A. In the camp?

Q. Yes. A. We perform work in the kitchen.

Q. When did you begin to work in the kitchen? A. Since I was in the camp.

Q. Have you done anything else? A. No, sir.

Q. You only cook for other men who refuse work known as conscientious objectors? A. No, I didn't look at it from that standpoint.

Q. Didn't you refuse to do cooking for any of the soldiers other than conscientious objectors? A. No, we wash dishes for all the soldiers.

Q. Didn't you cook in the department called the conscientious objectors' department? A. No, we have not. We eat with the soldiers, we eat with the soldiers at their mess table. In order that we might deserve our own food while in camp, we did not want to charge the Government for three meals a day and a place to sleep, we voluntarily agreed to work for our sustenance. That work we agreed to do is kitchen work.

716

Q. You refused to do any other kind of work? A. Yes, at that time, until the latest ruling of President Wilson we refused to do work all winter, until the last ruling of President Wilson.

Q. You refused to do any kind of noncombatant service until the President defined what noncombatant service was? A. Yes.

Q. You refused to do any work until that time? A. Yes.

Q. When did you start to do any work? A. Some of the boys—

717

The Court: You.

The Witness: I have done no other work except kitchen work up to now.

Q. Then I understand you refuse to do any work in the camp until the President defines what was non-combatant service? A. Yes.

Q. Up to that time you refused to even cook? A. No, we have been cooking and washing dishes all winter.

Q. What have you done since the time you heard the President's orders? A. That's what I said, working in the kitchen.

Q. When did you hear of that order? A. The lieutenant, as soon as he gets the information from Washington, he used to bring information to us and put the question "Do any of you want to take noncombatant service?" and he named the branches.

Q. Did you communicate with the Watch Tower about what service you should do before that time, before the lieutenant told you about the President's order? A. Yes, I did communicate.

Q. Whom did you write to? A. To Mr. Rutherford.

719 Q. When did you write to him? A. Last October.

Q. Was that at the time you were drafted, or after you were drafted? A. Before I was drafted.

Q. Did you get an answer from him? A. Yes, I got an answer.

Q. Is this the letter you received? A. Yes.

Q. Did you direct your letter to Mr. Rutherford or the Watch Tower? A. I don't remember which.

Mr. Oeland: I ask that this be marked for identification.

Marked Exhibit 11 for identification.

The Court: You cannot offer it now.

720 Mr. Oeland: It was not one of the letters I advised him I was going to use. It came in today.

The Court: That is something that came in since?

The Court: How did you happen to get it?

Mr. Buchner: The lieutenant took it.

The Court: Of course that arrangement won't prohibit the Government from using all the evidence coming in since.

Mr. Oeland: I did not know about it.

Mr. Sparks: Is this the statement that just came in. Let us have the statement that just came in.

The Court: It was under the search warrant. 721

Mr. Buchner: This was initialed by the man who brought it down.

The Court: This is not one taken under the search warrant?

Mr. Sparks: That was not the idea.

The Court: It was the idea. It was not the idea the Government would be prevented from using what came in. They furnished what they had in that line. If you did not understand it that way you put a false construction on it. Suppose a witness comes rushing in this afternoon, and says here is a piece of evidence? 722

Mr. Fuller: That's a different situation. If your Honor please I do not think that was the case. Mr. Oeland said the other day, I suggested we were afraid of sermons. He stated they were going to offer sermons. I said we were not afraid of sermons, but what he might prove as sermons. In that stipulation he said there would be nothing of that character, and it was under the same form of stipulation that we received copies of the papers under the overt act.

The Court: So you would know the witnesses necessary for you to call. 723

Mr. Fuller: Yes.

The Court: You would have to go out in certain parts of the country and get them?

Mr. Fuller: Yes.

The Court: You were all relieved of that. Here is a letter not under the search warrant, they didn't know, you don't need to call one of the witnesses, you don't need to do anything. We had in mind to relieve you at that time. It would be a very false and unreasonable con-

struction to put on that that at that time to say the Government cannot use that evidence. We won't discuss that, I am clear about it. It may be used in evidence. Except it was in that bunch of evidence taken by the search warrant you specified that, that did not prevent the Government from using that evidence. You are not to meet sermons or lectures. You may be curious about this, but on motion of continuance, the defendants claim they might have to bring a large amount of witnesses from various parts of the country who heard sermons or lectures, in order to testify what was in fact said in a sermon or lecture, and the Government specified they should not introduce any evidence of any sermon or lecture delivered by the defendants, and specified certain papers which they would use, taking from their place of business under a search warrant. Now, Mr. Buchner, have I stated it as you understood it?

725

Mr. Buchner: Yes.

The Court: As you understood it, Judge Oeland?

Mr. Oeland: Yes, I understood about the search warrant.

726

The Court: And the sermons and the lectures. Of course it would be necessary if a sermon was to be talked about to have witnesses to testify,

Mr. Oeland: I modified it by saying if I had this in mind I would not have hesitated giving them a copy, but I did not.

Q. It was after the receipt of that letter I handed you a moment ago you refused to do anything? A. What do you mean?

Q. You refused to drill, that you refused to accept

any noncombatant service except to cook, as you say, was that after receiving this letter I showed you? A. That was independent of the letter, absolutely, because as a Christian—

Q. Was it after you received the letter, I didn't ask you what caused it? A. I cannot tell exactly in one word. I can make an explanation in order to not misunderstood it.

Q. Didn't you get the letter before you went into the camp? A. Yes.

Q. Didn't you write and receive this letter just before you were drafted? A. Yes.

728

The Court: Didn't you write because you wanted their advice as to what you should do?

The Witness: No, I didn't write to get advice what to do in a military way, but to get advice from a Christian standpoint, from a Christian brother, as Mr. Rutherford has been instructing Christians in many ways, also better understand the Bible.

The Court: You wanted his advice as to what you should do when drafted?

Mr. Sparks: He has answered it. He said no.

The Witness: From one standpoint to take active part in war I did not write to get that answer, because I was a Christian before the war started, and therefore I had made up my mind then, because, as I understood the Bible, a consecrated Christian must not engage in war.

729

The Court: What did you write for?

The Witness: Wrote for a word of encouragement, according to the scriptures.

The Court: Respecting what you should do as a soldier?

The Witness: No, sir.

Mr. Oeland: That is all, except to offer this letter.

The Court: I do not hear any objection to it. It may be admitted.

Mr. Fuller: I desire to object to the letter, on the grounds offered in violation of the stipulation entered into by the Government, and so saying my recollection differs from your Honor and the attorney for the Government.

The Court: Overruled.

Mr. Sparks: My objection to this letter is it is not signed by any person they have identified.

The Court: Isn't this Mr. Rutherford who sits here?

Mr. Sparks: There is no proof of the signature of this letter.

The Court: Who did he say he wrote to?

Mr. Sparks: He said he couldn't tell.

The Court: Didn't you say you wanted Mr. Rutherford's advice?

The Witness: Exactly not advice.

The Court: You may ask him who he directed his letter to?

Q. Who did you direct your letter to? A. I don't remember.

The Court: Do you know Mr. Rutherford's handwriting?

Mr. Sparks: It is signed by a stamp, they say.

The Court: That is all right, signed by a stamp.

Q. Had you ever gotten other letters from Mr. Rutherford? A. I cannot remember.

The Court: I will admit it in evidence.

Admitted and marked Exhibit 11.

Mr. Sparks: Will your Honor before look

at that, that seems so contrary to the rule of our Circuit Court of Appeals on that very question, that either your Honor is so squarely right and our seven judges in the Court of Appeals so radically wrong—

733

The Court: You may bring in your Circuit Court of Appeals' decision, it is elementary for many years that a person having written to another and gotten an answer that raises sufficient inference, so the letter is admissible. I should be very glad to look at your Circuit Court of Appeals decision, but the Circuit Court of Appeals is not binding on this Court.

Mr. Sparks: If the law of the Circuit Court of Appeals is good, it is binding.

734

The Court: It is not binding in the least.

Mr. Sparks: If it is good law, whether it is from the State of New York or the State of California, it is binding on this Court, so long as it is good law.

The Court: If it is law it is good law, there is no such thing as poor law. You may read the letter.

Mr. Sparks: I want to get on the record if your Honor bases your ruling on the theory that there is any evidence here that this letter was addressed to Mr. Rutherford. He said he could not recollect to whom he addressed his letter.

735

The Court: He addressed his letter to the society or to him, but having answered it, it makes no difference whether he signed it with a rubber stamp, pen, pencil, or whether he didn't sign it at all.

Mr. Sparks: You have not established that he sent it, not a scintilla.

The Court: I disagree with you on that. I think it does appear it came from him. It is admitted, you may make further objections and exceptions to the introduction of this letter at any time.

Mr. Fuller: I would like to say an additional ground is the District Attorney has seized and has in his possession the letter of which this is the answer.

The Court: He told you a month, two months or three ago you could have it.

737

Mr. Fuller: We haven't had time to get it.

The Court: We will hear the letter.

(Letter read to the jury.)

The Court: You can get it. They say they told you repeatedly to come and get that.

Mr. Fuller: They did not.

The Court: Read the letter.

Mr. Sparks: It is not binding on any defendant here.

Q. Did you reply to this letter? A. No, I did not reply.

738 Q. Have you seen him since that time, talked with him? A. With whom?

Q. Mr. Rutherford. Have you seen him since then? A. Yes.

The Court: Talk with him?

The Witness: Yes.

Q. Where did you see him? A. Right here.

Q. At any other place did you talk with him? Since this letter was written, have you seen Rutherford and talked with him outside of the present here? A. Yes.

Q. Where did you see him? A. Saw him in the court room.

Q. I said outside, at any time from October 18 to Monday of this week did you see him and talk to him?

A. No, sir.

Q. Did you write him any other letters? A. I can't remember. I don't think I wrote any letters.

Q. I hand you this pamphlet and ask you if you have seen that? A. Yes.

Q. When did you get that? A. That was published while Pastor Russell was alive, two years ago, I guess, before the war.

Q. Have you received copies of this since October, 1917?

740

Mr. Sparks: I object, on the ground it does not show, the question does not purport from whom he received it.

The Court: Admitted.

Mr. Sparks: Exception.

Q. Have you seen copies of this since October, 1917? A. No, sir.

Q. Didn't you have any copies with you in camp? A. Yes.

Q. Where and when did you get those copies? A. From Boston.

Q. When? A. Last winter.

741

Q. What time last winter? A. We received different times, almost every month.

Q. How many copies of this particular volume, I am talking about now Volume 9, No. 1 of the Bible Student's Monthly, which contains in it an article "Wind of Strife." When did you get a copy of that last? A. I can't remember.

Q. Look at it, so you won't be mistaken about it? A. Some time in November, last winter.

Q. How many copies did you get? A. I got a few hundred.

The Court: A few hundred copies?

The Witness: Yes.

The Court: About how many do you mean?

The Witness: About four hundred.

Q. Did you get any copies of that same pamphlet after November, 1917? A. I think in December I got some.

Q. How many copies did you get then? A. About two hundred.

Q. Where did you get those from? A. From Boston.

743

Q. Did you get the four hundred from Boston in November? A. Yes.

Mr. Sparks: I haven't seen the paper. I understand it is dated at a time prior.

Mr. Oeland: It is not dated at all.

The Witness: This is published before the war broke out.

744

Mr. Sparks Just a minute until I get my objection. This is a publication published before the war. Suppose this man picks up some copy there some place else, the fact that he took them to some place else would have no effect upon these defendants any more than I might circulate the President's book written in 1903, on sale around the city now, and if I should pick up that book and read it, and have it in my possession, certainly no action could be taken against the President.

Mr. Oeland: I don't intend to prove its publication. I intend to prove its circulation.

Mr. Sparks: He says he got it from Boston and it doesn't show the connection between these defendants.

Mr. Oeland: I ask that this be marked for identification.

Marked Government's Exhibit 12 for identification.

Q. Did you get any after December, 1917?

Mr. Sparks: I object on the ground—

The Court: Admitted.

Mr. Sparks: Exception—on the same grounds as stated in the previous objection.

Q. This is the volume you got, isn't it? A. Yes.

Q. You say that your idea is it was published before Pastor Russell's death or Mr. Pastor Russell's—I don't allude to him disrespectfully? A. Yes.

746

Q. You know "The Finished Mystery" was not written until 1917? A. Yes.

Q. Will you look at the corner and see "The Finished Mystery" was written long after Pastor Russell's death? A. Yes.

Q. Don't you see it advertised here, "The Finished Mystery," 608 pages, International Bible Students' Association? A. Yes.

Q. It couldn't have been published before the issuance of "The Finished Mystery," because that was not published during Pastor Russell's life? Then you are in error as to that? A. I couldn't see any difference. The contents are the same. You can publish the same paper any time.

747

Adjourned to June 7th, 1918, at 10:30 A. M.

June 7, 1918, 10:30 A. M.

HANS INSBERG, recalled on behalf of the Government, further testified:

Cross-examination by Mr. Sparks:

Q. Mr. Insberg, how long have you been a member of the Boston class? A. Yes, sir.

Q. You are a member and have been for how long, how many years? A. Four years.

Q. Have you consecrated yourself to the Lord? A. Yes, sir.

Q. When did you do that? A. I made my consecration in 1914, in the spring of 1914.

Q. Will you explain to the Court and jury what consecrating yourself to the Lord means, as you understand it? A. Consecration of one's self means to give up everything to the Lord, to be a living sacrifice, and to take up the cross, and to follow in the Master's footsteps, to be like our—that we as Christians be like our Master, Jesus Christ. A Christian, after he has made his full consecration to God, he must follow the rules laid down in the Bible, to be separate from the world and to forget all things but his hope, his heavenly hope.

Q. Since your consecration to the Lord as you have described it in 1914, have you to the best of your ability and understanding been following that consecration down to the present time? A. Yes, sir.

Q. And does that consecration according to your understanding prevent you from taking up military service? A. Well, I got to make a little explanation of that. As a Christian I believe that the Bible sets forth certain rules of what Christians should be and I have been permitted to live in this country and enjoy all rights and therefore I realize as set forth in the Bible that Christians have some obligations to make in time of stress and therefore I believe that it is my duty to help the country as far as it is possible, or rather as far as it is covenant with my Heavenly Father, and that applies today as well as in all times and all places, so from this standpoint I have nothing against the war. I sympathize with the United States in the war and am willing for my part to help and to do my duty, of course with the privi-

lege that I be permitted to live in this country and see the light.

Q. In pursuance to your belief as to what your duty was to the Lord did you make a claim as a conscientious objector against military service? A. Yes, sir.

Q. In making your application to your local board did you set forth the grounds upon which you made that claim? A. Yes, sir.

Q. And the claim that you set forth was your conscientious belief, you stated it truthfully? A. Yes, sir.

Q. Did you also state that you were a member of the International Bible Students' Association? A. Yes, sir. 752

Q. That their creed was against war, as you understood it? A. Yes, sir. I didn't tell them that, that the creed that I belonged to was against war, but explained as a Christian I didn't see how I could engage in combat. I didn't see how I could be able to do that.

Q. Prior to the declaration of war between the United States of America and the Imperial German Government, did your belief permit you to take up arms? A. No, sir.

Q. And that was your position at the time of the declaration of war on April 6, 1917? A. Yes, sir. 753

Q. Have you been influenced to take that position by any person since the declaration of war or was that your position prior to the declaration of war? A. That was my opinion prior to.

Q. No person connected with the International Bible Students' Association has caused you to take that position since the 6th day of April, 1917? A. No, sir.

RE-DIRECT EXAMINATION by Mr. Oeland:

Q. What time in 1914 did you become consecrated?

A. The consecration was sometime in—takes quite a time.

Q. When was it finished? A. In the spring of 1914 and since that time I have been rejoicing in the truth; I have been studying more and more the Bible and been more and more in the knowledge of God's will.

755 Q. What did you do when you say you became consecrated? A. I gave up myself to the Lord.

Q. Did you sign any book or become a member of any organization? A. No, sir.

Q. You just said to yourself that you would become consecrated? A. Yes, sir.

Q. What is the International Bible Students' Association? A. As far as my knowledge goes, four years association with them, I believe they are the most honest Christians on this earth.

Q. Is it a church or an organization or a corporation? A. It is simply a body of Christians collected together to expound God's words as they see the truth from time to time.

756 Q. Don't you know it is a corporation? A. Yes, sir.

Q. Where did you learn that? A. It is bound to be a corporation in order to expound the truth successfully. Without any corporation it could not be done.

Q. Do you know when they were incorporated? A. I can't remember.

Q. Do you know where they were incorporated? A. I don't remember the year. I just remember in Pennsylvania.

Q. You think they were incorporated in Pennsylvania? A. Yes, sir.

Q. Can you tell us the year when they were incorporated? A. I can't remember.

Q. Don't you know it was in 1914, about the time that you say you became consecrated?

Mr. Sparks: I object to it as not proper re-direct examination.

Admitted. Defendants except.

Q. How did you join the International Bible Students' Association? A. Well, from the first I did not join; I didn't want to join any organization.

Q. Did you ever join it? A. No, not in the sense you mean.

Q. How could they ever tell you were a member of the association; you say you are? A. Yes, sir. 758

Q. You did nothing, paid no dues and didn't sign in your name—didn't sign anything, is that correct? A. That is correct.

Q. How do you know you are a member of it? A. Well, we don't keep any—that association don't keep any record on the rolls as other churches do.

Q. How do you know you are a member of it? A. We are a body of Christians who are trying to study the Bible and expound what the Bible teaches.

Q. As I understand your version of it an individual who studies the Bible becomes a member of the International Bible Students' Association? A. Not necessarily. 759

Q. Is that the way you became a member? A. It is merely a matter of association; a Christian fellowship.

Q. How do the people who organized it and control it, the officers of the corporation, how do they know when you are a member of it? A. I want to make an explanation. It is kept by voluntary contributions by whoever wants to donate money for the Lord's will or what he believes is the truth and to make those things clear he voluntarily and joyfully gives what he can. That doesn't mean that he must become a member or something like that.

Q. Just tell the jury how anybody officially representing the organization of the International Bible Students' Association could tell that you were a member? A. Anyone who made a full consecration to the Lord, he is a Christian and a member of the society.

Q. How could anyone go to the officers of the organization and say I want to know if Mr. Insberg is a member of the International Bible Students' Association; just how could he find it out, and who from?

A. Have you fully consecrated yourself and have you been reading the books—that is also a question; then
761 you are a brother.

Q. No one could tell whether you are a member of the association except he came to you—

Mr. Fuller: I object to it. I object to Mr. Oeland leading his own witness.

Objection overruled.

Defendants except.

Mr. Sparks: I make this objection in amplification of Mr. Fuller's. The question suggests to his own witness a negative. He has no right to suggest a negative to his own witness.

The Court: I think he has under the circumstances. I will give you the same latitude.

762

Mr. Sparks: Exception.

By Mr. Oeland:

Q. So the only way that anyone who was interested in possibly finding out that you were a member of the International Bible Students' Association would be to come and ask you? A. Exactly.

Mr. Fuller: I object as calling for a conclusion of the witness.

The Court: The question will be allowed. These questions that may be said to be calling for conclusions and questions that may be said

to be leading will all be allowed except in extraordinary circumstances. I have very little faith in the leading question doctrine or in the other. I rule it is all as a matter of discretion. I think a great deal of time is wasted in court, so I will allow them all. I will allow great latitude to most any question.

Mr. Sparks: May it be understood that when you state for the record that you rule as a matter of discretion, that that is no consent on our part by our silence that it is a matter of discretion and that we take our exception on the legal grounds, not consenting that it would be discretionary.

764

The Court: That may be understood. On leading questions I think the rule is very well settled that the Court has much latitude in exercising its discretion, so I shall pay very little attention to any formal question.

By Mr. Oeland:

Q. So you signed no paper? A. No, sir.

Q. And the only way that an individual could find out whether you were a member was to come and ask you? A. Yes, sir.

Q. And you could tell him that you were consecrated and therefore a member? A. Exactly.

765

Q. How long have you been living in the United States? A. Four years.

Q. You know something about the laws, do you, the Constitution? A. Yes, sir—not much.

Q. You have been protected by the laws?

Objected to.

(Question withdrawn.)

Q. But you are unwilling to do anything to defend the Constitution or the laws?

Mr. Sparks: I object to it as immaterial as to what he is willing or unwilling to do in a trial of this kind against these defendants.

The Court: In view of the cross-examination and re-cross examination on this branch of the case I am inclined to allow that question.

Mr. Sparks: The only object is to tend to throw discredit upon their own witness. We except.

The Witness: I must make an explanation.

767 Mr. Oeland: I will withdraw the question.

By Mr. Oeland:

Q. Since you have been called have you done anything to defend the Constitution or laws of the United States?

768 Mr. Sparks: I object to it upon the ground that the law—that the laws themselves and the President's rules and regulations expressly cover this man's case, and in fact the President's rules and regulations go so far as to say that a person who does claim, leaving out entirely the question of his bona fide—a person who makes a claim to be a religious or conscientious objector shall not be compelled to do anything more than this man has already done and the question assumes that he has not done something which the President himself says that he cannot be required to do, and permits him to do the only thing which he has voluntarily done.

Question allowed. Exception.

The Witness: I can't answer in one word, I will have to make an explanation.

Q. Have you done anything to defend the laws or Constitution since you were drafted? A. I have nothing against the laws.

Q. Have you done anything to defend? A. No. I believe the laws are righteous.

Q. Have you done anything?

Mr. Sparks: I object to it. It is not specific and doesn't inform the witness as to what counsel means by has he done anything.

Question allowed.

The Witness: I have nothing against the laws.. 770

Q. Have you done anything to defend the laws or Constitution since you have been drafted as a soldier? A. What do you mean to do anything, you mean to defend the laws, go over in France and fight?

Q. Have you done anything that you can say you have done?

Mr. Sparks: We object. That may include whether he has washed dishes.

Objection overruled.

The Witness: I am willing to defend the laws.

Q. What have you done since you have been called to the colors? 771

Mr. Sparks: We object to it as not the issue in this case, prejudicial to the defendants and improper on re-direct and cross-examination of their own witness.

Question allowed. Exception.

(No answer.)

Q. If you can't answer it I will pass to something else. You say you believe in the laws and when you were drafted and taken to camp you immediately deserted and ran away, didn't you?

Mr. Sparks: We object to it as improper and prejudicial to the defendants and not the issue in this case.

The Court: Because it is prejudicial to the defendants is no reason why it should not be admitted. The question will be allowed.

Defendants except.

Q. You understand the question? A. I understand.

Q. What is your answer? A. Just as I said awhile ago.

773 By the Court:

Q. Did you run away, desert and run away? A. Yes, sir.

RE-CROSS EXAMINATION by Mr. Sparks:

Q. Who is the leader of your class in Boston? A. Well, there is a few elders.

Q. You have weekly meetings, do you not? A. Yes, sir.

Q. And you have what they call a class? A. Yes, sir.

774 Q. And you have some minister preach to you and interpret the Bible? A. Yes, sir.

Q. And is he stationed there regularly? A. Yes, sir.

Q. Who is that man that interprets the Bible for you in Boston? A. Well, there is a few elders, at least six of them, I guess.

Q. Do you know their names? A. I know a few of them, but I don't know all.

Q. If I went to Boston and asked any one of those men wouldn't they know you were an attendant at those classes? A. I think they would.

Q. Did you take water baptism? A. Yes, sir.

Q. When did you do that? A. 1916.

Q. Where was that, in Boston? A. Yes, sir.

Q. And were there any questions asked of you at that time by some person representing himself to be a minister of the International Bible Students' Association? A. Yes, sir.

Q. And what were those questions that he asked you? A. Have you made full consecration.

Q. And in answer to that question did you state how you had made full consecration? A. Yes, sir. I said yes.

Q. Did he ask you how you had done so? A. No, there were two more questions. The second question was do you accept the Lord Jesus Christ as your Saviour and do you believe that through His blood has been purchased as a ransom price— 776

Q. What does that mean? A. The word "ransom" means to purchase, and Christ gave all His life since the world and his ransom price or the value of his faith or in other words, his blood—his life, that is the purchase of life. So He lost his life through His ransom price.

Q. What was the third question? A. I guess there were only two questions.

Q. In the class there in Boston what books did you study or read? A. Pastor Russell's books. 777

Q. In six volumes? A. Yes, sir.

Q. And you personally took the Watch Tower? A. Yes, sir.

Q. The "Watch Tower" is the official paper of the International Bible Students' Association, is it? A. Yes, sir.

Q. And you were a regular subscriber to that? A. Yes, sir.

Q. And in the regular book called "Watch Tower" you were given weekly information as to the studies in the scripture? A. Yes, sir.

Q. And all the persons who subscribed to the "Watch Tower" have their names on the books of the

Watch Tower Bible & Tract Society here in Brooklyn? A. I think so.

Q. And you received this regularly through the mail, did you? A. Yes, sir.

Q. And according to your means you make a subscription to carry on the work of the organization? A. Yes, sir.

Q. And that you regard as a contribution not to the association but to God to spread his work? A. Exactly.

779 Q. When you were taken to camp was any effort made to compel you to wear a uniform? A. No, sir.

Q. You stated to them you were a conscientious objector? A. Yes, sir.

Q. And you waited until the President promulgated his rules in reference to what service you could take as noncombatant service, is that correct? A. Yes, sir.

Q. When he did promulgate his rules you did accept such service as came under those rules and regulations? A. Well, yes, I am willing to accept them.

780 Q. You have accepted them since you learned what the rules and regulations of the President were? A. No, not exactly. For my part I have accepted them though I have not said that I wanted to enter immediately into the service.

CROSS-EXAMINATION by Mr. Fuller:

Q. When you were baptised were you baptised before the class, the entire congregation? A. Yes, sir.

Q. Were those questions asked you before the congregation? A. No, not exactly before the congregation.

Q. Where were the questions asked you? A. When the baptism took place there were two of them in the water. When you go in the water and be ready

to be emerged why the elders put the questions to you because the congregation is behind, they can't hear.

Q. The questions are put at that time? A. Exactly.

Q. Are those questions always put at the time of the immersion? A. Yes, sir.

Q. Do you know whether or not the association was in existence prior to 1914? A. Yes, sir.

Q. It has been in existence for a great many years, has it not? You yourself don't know anything with respect to the circumstances of the incorporation of the association, do you? A. I know some because I have been reading some of the chapters—

782

Q. You learned that it was incorporated about the year 1914? A. Well, I can't remember that.

Q. Do you remember what date it was? A. No.

Q. You do know that the association is a religious organization and was in existence for a great many years before that? A. Yes, sir.

Q. You said you deserted and ran away. Are you now at the camp and have you been brought down here from the camp? A. No, sir; I came down myself. They sent me down from the camp.

Q. But you had returned to the camp, had you? A. What I intended—there was a mistake. Just as a Christian learns from day to day, he learns by experience, his character is growing wider and wider, so when I did that act I can see now that I did wrongfully. Now, I wouldn't do it any more. If the law advises I go to camp; I obey cheerfully. When the law requires that I go to camp I obey myself and I obeyed it cheerfully and after going to camp to report myself to the commanding officer and properly present the case and they will put me in some other branch of the service or among conscientious objectors. But at that time I did not know myself how to act and I left the camp which now I see was wrong. I wouldn't do that any more.

783

Q. How long were you away from the camp? A. Three months.

Q. When you went back you were assigned to kitchen work? A. Yes, sir.

Mr. Oeland: I object as assuming an answer not made.

Question allowed.

Q. You have been doing kitchen work there ever since? A. Yes, sir.

785 Q. You have not been reassigned to any new kind of work since the President's designation of non-combatant service came out? A. No, sir.

Q. Your particular desire is and continuously has been not to be in a branch of the service where you would be obliged to kill men, is that it? A. Yes, sir.

By Mr. Oeland:

Q. Mr. Fuller asked you when you went back you were away how many months? A. Almost three months.

Q. Did you go back or did they take you back? A. They took me back.

786 Q. You did not see you were doing wrong until they caught you and took you back? A. That is exactly it, I didn't see.

Q. He asked you about doing noncombatant service. You have not done anything yet but you say you are willing to, but you are not quite ready, is that the substance of what you said, that you were willing to do noncombatant service but not right away? A. Yes, sir; I am willing and I am ready now for non-combatant service.

Q. Did not you answer a moment ago to him that you were willing but not right away? A. I said that after understanding the President's latest ruling I in my conscience accepted it though I did not report to go in non-combatant service immediately.

Q. You did not do that? A. No.

Q. When do you think you will?

Mr. Sparks: I object to it as immaterial.

Objection sustained. Question withdrawn.

By Mr. Sparks:

Q. It is your understanding that under the President's latest order you have the right to volunteer to do special services? A. Yea, sir.

MABEL CAMPBELL, being called and duly sworn as a witness in behalf of the Government, testified as follows:

Direct-examination by Mr. Oeland:

Q. What was your maiden name? A. Mabel Russell.

Q. How long have you been associated with either one of the organizations known as the International Bible Students' Association or the People's Pulpit Association or the Watch Tower Bible & Tract Society? A. Since 1912.

Q. You began there first under your maiden name and you have since married, or did you marry before you went there? A. In connection with the society in Brooklyn? 789

Q. At any place. A. In 1912 under my maiden name.

Q. You have been working there—you were working there in 1917 and are working there now? A. I was working in Brooklyn in 1917 and are there now, but not in 1912.

Q. Working in Brooklyn 1916 and 1917? A. Yes, sir.

Q. And 1918? A. Yes, sir.

Q. What kind of work did you do? A. Various kinds of clerical work.

Q. Just tell the jury in a general way? A. Stenographic work and typewriting and all kinds of work in connection with an office.

Q. You took stenographic dictation? A. Yes, sir.

Q. Who are the officers of the People's Pulpit Association?

Mr. Sparks: We object to it as not the proper way of proving it.

Q. Who directs things there?

Mr. Sparks: Objected to as calling for a conclusion.

Question allowed.

Mr. Sparks: Exception.

Q. Do you do work for the People's Pulpit Association? A. The Watch Tower Bible & Tract Society and the People's Pulpit Association combined.

Q. When you are working for the People's Pulpit Association who gives directions? A. Just depends on whatever department you are in; it is a regular business office.

Q. Who are the ones who direct the business there in the office? A. Mr. Rutherford is the president of the society and gives general directions and the office manager is Mr. Martin.

By the Court:

Q. Robert J. Martin, manager? A. Yes, sir; office manager.

By Mr. Oeland:

Q. You have what we know ordinarily as a book agent? A. Yes, sir.

Q. Who has direction of sending out the books for sale, who ships the books away on the orders that come in? A. That is handled by various departments.

Q. What does Mr. Martin do? A. He is general overseer of the office.

Q. Tell the jury what particular work he looks after? A. He is general manager and as a general manager would be in the office.

Q. Be more specific? A. In what way?

Q. Suppose somebody sent in an order for some books to be shipped to him, say "The Finished Mystery," seven volumes, who would take charge of that in the ordinary course? A. It depends what state it would be in and what correspondent would handle it.

794

Q. Suppose we take New York? A. It would be handled by one of the correspondents handling that state, the work connected with that state.

Q. Would Martin have anything to do with it? A. He is responsible for the work.

Q. Don't he give you directions as to shipping orders? A. Not every order, no.

Q. Does he with some of the orders? A. Not that I know of—he is generally responsible.

Q. For all the orders that come in? A. As to how they go out.

795

Q. In other words, he has general control of everything that goes out of the office? A. That comes in and goes out, of what a general manager's work would be.

Q. What does Mr. Van Amburgh do? A. As I understand it he is secretary and treasurer of the society.

Q. He handles the financial end of it? A. I believe so.

Q. What does Mr. Rutherford do? A. He is president.

Q. What does Mr. Robison do? A. He is one of the editorial committee in the "Watch Tower."

Q. What do you mean? A. He has a committee of men, they carry articles for the "Watch Tower."

Q. You mean Mr. Robison, one of the defendants? A. Yes, sir.

Q. What does De Cecca do? A. He looks after the Italian branch of the work.

Q. In other words, you have in that department you have an Italian branch and he manages and looks after that? A. Yes, sir.

Q. In other words, literature that comes in there relating to the Italian orders for books is turned over to Mr. De Cecca? A. I believe so.

Q. And he attends to that? A. I believe so.

Q. How long have they been attending to that? A. Ever since I was connected with this society.

Q. In 1917 and 1918? A. Yes, sir.

Q. What does Mr. McMillan do? A. He is a sort of a general overseer over and above Mr. Martin, assistant to the president.

Q. He is assistant to Mr. Rutherford? A. So I understand.

Q. Whenever Mr. Rutherford is away Mr. McMillan does his work, is that the idea? A. I believe something like that. He sort of helps out.

Q. In other words, he would answer letters? A. I don't know about that.

Q. Don't you know he has written letters in Mr. Rutherford's absence? A. I have written so many I couldn't be positive about that.

Q. Can't you recall that McMillan has dictated letters to you about the affairs of the concern? A. He has dictated letters—maybe some doctrinal letter would come in. I would take care of that.

Q. Did he restrict himself to writing doctrinal matters? A. No, sir.

Q. He would write about business matters too? A. Yes, sir.

Q. Anything that would come along in Mr. Rutherford's absence that the president would give his attention to Mr. McMillan would attend to that? A. I don't know. Mr. Rutherford has various assistants who helps out in his office.

Q. Who are the assistants of Mr. Rutherford? A. Various ones.

Q. Mr. McMillan is one? A. He is the president's assistant or representative.

Q. What do you mean by being a representative of the president. Does that mean when the president was there he would act? A. He would act in a certain capacity. 800

Q. Isn't Robison a personal representative of the president in the Watch Tower Bible & Tract Society?

Mr. Sparks: I object to it as calling for a conclusion.

The Court: Admitted.

Mr. Sparks: Exception.

The Witness: That may be, I don't know.

Q. What does Mr. Woodworth do? A. He is connected with the headquarters as I understand it. He is associate editor in connection with "The Finished Mystery." 801

Q. What does Mr. Fisher do? A. He is as I understand it on one of the editorial committees of the "Watch Tower."

Q. What does that committee do? A. I don't know.

Q. Did you do any work on "The Finished Mystery"? A. I don't recall any just now.

Q. Didn't you take some dictation from either Robison or Woodworth? A. No, sir.

Q. Who did take that dictation? A. I don't know.

Q. You know they compiled it? A. I am told they did. I didn't see it with my eyes.

Q. Haven't they told you that they compiled it?

A. Mr. Woodworth told me he had helped, a share in it.

Q. You have no reason to doubt his word about that? A. No, sir.

The Court: As to what this defendant told the other defendant, that will be stricken out.

Q. You did not take any of the dictation under his direction? A. No, sir.

803 Q. Did not take any of the dictation in the preparation of that? A. No.

Q. Did you take any dictation about the shipment or instructions? A. I don't recall it specifically. I may have taken it in connection with an order or something of that sort.

Q. You know that a great many orders came in there? A. Surely.

Q. And you know that those books were shipped all over the United States? A. Yes, sir.

Q. Sold all over the United States? A. I believe so.

Q. Who would ship those out, Martin? A. He would have general oversight.

804 Q. The order would be approved by him before it was shipped? A. I don't know.

Q. Who collected the money for the sale of these books? A. That comes in the general course of business.

Q. What is the general course of business? A. I can't go into detail about it; some remitted with orders and some have them sent C. O. D.

Q. When the money comes in it goes to Mr. Van Amburgh? A. I believe so.

Q. Because he is secretary and treasurer, is that right? A. Yes, sir.

Q. You know that the Watch Tower Bible & Tract Society, they issue a semi-monthly or monthly publication, don't they? A. Semi-monthly.

Q. What is that called? A. The "Watch Tower."

Q. Where was the printing done? A. I don't know.

Q. Who pays for the printing? A. I presume the Watch Tower Bible & Tract Society; I don't know definitely.

Q. You know that is issued by the Watch Tower Bible & Tract Society? A. Yes, sir.

Q. Semi-monthly? A. Yes, sir.

806

Q. Who prepares the data that goes into that organ? A. The editorial committee.

Q. I hand you a copy, and ask you if that is a copy of the organ printed by the Watch Tower Bible & Tract Society (showing witness paper)? A. I believe it is.

Mr. Oeland: We ask that it be marked for identification.

Paper marked Government's Exhibit 13 for identification.

Q. You publish another pamphlet there, do you not, called the "Kingdom News"? A. I believe so.

Q. Who looks after that? A. I don't know.

807

Q. When the Watch Tower Bible & Tract Society is published how is it distributed—when the "Watch Tower" is published, how is that distributed? A. The regular way, through the mails.

Q. You have a great many copies printed and then you have some kept there for sale to people who come to call for them? A. Like any publication they always have extra copies called sample copies; they are kept for free distribution.

Q. If I want to go up there and buy a copy of the "Watch Tower," where will I get it? A. The clerk will give it to you.

Q. Who is the clerk? A. I understand it is Mrs. M. O. Bowen.

Q. How long is she down there? A. I don't know.

Q. 1917? A. I don't know.

Q. Then you issued there a pamphlet called the "Bible Student's Monthly"? A. We used to.

Q. When did you stop that? A. I don't recall just now, whenever the Government ban was placed on it.

Q. When did you understand that was? A. Sometime in the spring.

809 Q. That "Bible Student's Monthly"—I hand you Exhibit 12 for identification and ask you if that is one of the ordinary copies that you prepared there? A. I believe it is.

Q. I hand you another and ask you if that is one of the copies that used to be issued? A. I believe so.

Mr. Oeland: I ask that it be marked for identification.

Paper marked Government's Exhibit 14 for identification.

810 Q. When these Exhibits 12 and 14 for identification are printed they are kept in the store there for distribution and sale? A. I don't know.

Q. Who could tell about that? A. I don't know. A certain quantity is kept that anyone may have by requesting them.

Q. You don't sell them, just distribute them? A. Yes, sir, free.

Q. Do you know how voluminously they are printed? A. Away up in the thousands of millions, I presume.

Q. They are free to anybody? A. That requests them.

Q. And then if they don't request them you sometimes send out a man to distribute them generally?

A. We don't unless some one volunteers and requests a quantity to take out themselves.

Q. In writing letters over there you had a stamp by which you would initial the bottom of the letter in some way? A. Sometimes initialed it.

Q. What does M. A. R. with a star and a V. after it, mean?

Mr. Sparks: I object to it as calling for an operation of the witness's mind.

The Court: Admitted.

Mr. Sparks: Exception.

Mr. Oeland: I ask that it be marked for identification first.

812

Paper marked Government's Exhibit 15 for identification.

Q. M. A. R. and sometimes a star or an asterisk, a V.? A. Usually when I write letter I put M. A. R., my previous initials and a V sometimes stood for Mr. Van Amburg's dictation.

Q. Didn't V with a star between M. A. R. and the V always stand for Mr. Van Amburg's dictation? A. No, sir. Sometimes I would use a dash or whatever I felt like using myself.

Q. Who dictated that letter to you, or did you write that?

813

Mr. Sparks: I object to it as calling for a conclusion and the operation of this witness's mind.

Admitted.

A. I don't recall just now. I don't recall it. When you write fifty or sixty letters a day you can't recall any specific one.

Q. When you take dictation and write letters you sign them on the left-hand corner M. A. R.? A. Invariably, but not always; file E or whatever it might be.

Q. You put on the left-hand side M. A. R.? A. Not all, some.

Q. That one has got M. A. R.? A. If that is mine, I don't know.

Q. That has got M. A. R. on it, hasn't it? A. Yes, sir.

Q. And that is the way that you say that you sometimes took dictation and put it on your letters? A. Yes, sir.

Q. And the V you say sometimes stood for Van Amburgh? A. Yes, sir.

By the Court:

Q. What else did it stand for, if anything? A. I don't recall. The various departments had file numbers with the alphabet letters after, but what it was then, I don't know.

Q. What did that letter V stand for? A. I presume it is Mr. Van Amburgh.

Q. Any doubt about it? A. M. A. R. star V—

Q. Have you any doubt about it, as to what it stands for? A. I know it stands for M. A. R. V. It stands for Mr. Van Amburgh having dictated a letter to me.

816 By Mr. Oeland:

Q. You got what they call a military file in the office, haven't you? A. I believe there is one, but I am not sure about it.

Q. In the military file don't V stand for Van Amburgh? A. I don't know, couldn't say. Some of the letters I have written go to the general file—there is one file for all the office.

Q. You did get letters of inquiry in reference to the Selective Draft and so forth, didn't you? A. No, sir, I never did.

Q. But they would dictate to you, answers? A. I may have.

Q. Did you attach the copy of the answer to the letter? A. No, sir.

Q. Who does that? A. Sometimes stenographers did it—it would depend on who you worked for. Others preferred to have the carbon attached to the original.

Q. This one appears to have been attached; who did that? A. I don't know who attached it.

Q. Is that a reply to that letter (showing)?

Objected to. Admitted. Exception.

818

A. I don't know.

Q. Look at the letter and look at the reply to it?

Mr. Fuller: I object to it as it is merely an opinion of the witness. The letter and the copy speak for themselves.

The Court: As I understand she wrote the answer herself.

The Witness: I can't tell who attached it there.

Q. Is that an answer to the pen-written letter? A. It seems to be. I could not speak from recollection at all, but in reading it over it seems to be a reply to this (indicating).

819

By the Court:

Q. How long ago was that written? A. September 27th, 1917.

By Mr. Oeland:

Q. And you can't remember now whether that was a reply to that letter? A. No, sir, I could not.

Q. Can you look at the letter and your initials that you say you customarily put on letters—don't they refresh your recollection? A. No, sir. I could not recall any specific letter after having written fifty a day.

Mr. Sparks: I object to it as an attempt to impeach their own witness.

Objection overruled. Exception.

The Court: The greatest latitude will be allowed. The witness seems to be unwilling to answer.

Mr. Sparks: Exception.

The Court: There are some things indicating that the witness is hostile.

Mr. Sparks: We except.

The Court: The greatest latitude will be allowed. Here is a copy of a letter she said she wrote from dictation and she initialed it and it is attached to the pen-written letter. Now she has said that after reading them, the copy of the letter she said she wrote from dictation has no tendency whatever to refresh her recollection and can't tell whether the copy is an answer to the pen-written letter.

Mr. Sparks: I am surprised that a stenographer taking dictation can recognize nine months after, that carbon copy, or can even say that she took the dictation and wrote that letter. I think she has gone very far in saying from the carbon copy that she don't recognize that she took that nine months ago. We object to it as there is no proof that they came from the Watch Tower Bible & Tract Society.

The Court: The greatest latitude will be extended to this line of examination.

By Mr. Oeland:

Q. I ask to have another exhibit marked for identification.

Paper marked Government's Exhibit 16 for identification.

Q. Now, I hand you Exhibit 16 and the attached letter, and ask you to look at the letter and the carbon copy attached to it and see who wrote that carbon copy? A. I could not say who wrote it.

Q. What initials are down on the left-hand side of the carbon copy?

Objected to as the paper speaks for itself.
Admitted. Exception.

A. The initials on there are the same as what I used to use in my work, but I could not say that this is the one that I wrote.

824

Q. Were you using those on letters in 1917? A. Yes, sir.

Q. Did you take dictation from Mr. Van Amburgh in 1917? A. During the year I have, but now I couldn't recall just when it was.

Q. Did you sign the letters that were dictated to you M. A. R. and a star and a V? A. Some of them were signed that way and some signed W. E. V.

Q. That one is signed M. A. R. and a V? A. Yes, sir.

Q. That is the way you sometimes signed letters that were dictated to you? A. Yes, sir.

Q. Why were the others signed different? You said some were signed in a different way? A. Some I used W. E. V.

825

Q. Don't you know that in answer to military correspondence that you used that form V? A. No, sir, I used M. A. R. and star and W. E. V. and afterwards used V., which was a matter of two or three days after I began to take dictation from Mr. Van Amburgh.

Q. You used V in 1917? A. I used it for all other correspondence after I began using V.

Q. You know your work, don't you? A. No, sir, I couldn't tell. It is not—

Q. Are you not able to tell your own work? A. Not typewriting, no, sir.

Q. You did answer letters that were addressed to the Watch Tower Bible & Tract Society, didn't you?

A. Not personally.

Q. Under dictation from Mr. Van Amburgh? A. Yes, sir.

Q. And you did that in 1917? A. Sometime during the year.

Q. You did that in 1918? A. No, sir.

827 Q. Who took your place in 1918? A. There was no special place, just a matter of being in the office taking dictation from various members of the officers.

Q. In 1917 and 1918 you did take dictation from Mr. Van Amburgh? A. In 1917 I recall; 1918 I do not.

Q. He would answer letters that were addressed to the Watch Tower Bible & Tract Society? A. Some.

Q. You say that you can't look at that and tell that you did that typewriting work? A. No, sir, I could not.

828 Q. In September, 1916, from that time to the present you have no personal recollection of having received that dictation or written that letter? A. I do not recall that letter.

Q. Have you got your note book? A. No, sir.

Q. Where is it? A. I destroyed it as it is finished, threw it away because carbons were kept of the letters.

Q. Did you keep carbons of the letters that you wrote in your note book? A. Most of them.

Q. Is this one of these letters that were dictated and you transcribed from your notebook? A. I could not say.

Q. Why not? A. I have no way of proving it.

Q. Did you make copies on carbon paper like that (showing)? A. I have at times. Sometimes pink and sometimes yellow.

Q. Did you do it on paper like that attached to Exhibit 16? A. It seems—

By the Court:

Q. What is your best recollection? Feel of the paper; you wrote a great many letters a day. Do you identify the paper? A. The paper seems like it, but I can't swear to it from feeling it, because each time we got paper it is different weight and different quality.

Q. Just tell us your best recollection? A. It seems that way.

Q. You mean by that that you think it is such paper as you were using there in making copies of letters? A. It looks like it from feeling it and looking at it. 830

The Court: Ask the witness if she had any talk with anybody about her testimony.

Mr. Sparks: I object to the suggestion on the part of the Court and I resent it personally.

The Court: Objection overruled. There is no occasion for counsel to resent it whatever. The Court has a right to direct as to a trial.

Mr. Sparks: The Government can't impeach its own witness. I take exception on the ground that that is what the Court is permitting him to do. We except. 831

By Mr. Oeland:

Q. Haven't you seen what purports to be copies of these two letters, Exhibits 15 and 16, within the last two days? A. No, sir.

Q. Has anyone spoken to you about these two letters? A. No, sir.

Q. Has anyone spoken to you about your testimony in the case at all? A. No, sir.

Q. When were you subpoenaed on the case? A. As near as I can recall I think it was Monday noon last.

Q. Where have you been during that time? A. I have been here since Tuesday morning; I have been here off and on and the rest of the time at home.

Q. Where? A. No. 122 Columbia Heights.

Q. You have been in the office over there at Hicks Street? A. No, sir.

Q. At home? A. Yes, sir.

Q. You have not spoken to anybody about your testimony about these two letters? A. No, sir.

Q. Haven't you spoken to anybody about what you could or would testify? A. No, sir.

833 Q. All these defendants stay at the same place, don't they? A. As far as residing here they all do except Mr. Woodworth and Mr. Fisher.

Q. Aren't they all stopping around at the same place now? A. Yes, sir.

Q. And have been since you have been subpoenaed in this case? A. No, I can't recall having seen them, but I believe they are there.

Q. You have not spoken to any of them about these letters at all? A. No, sir.

Q. Did you speak to them about the fact that you might be called as a witness in the case? A. I don't recall specially now.

834 By the Court:

Q. Whether especially or not? A. I think I mentioned one evening to Mr. Woodworth, in the hall, that I was one of the witnesses, and that is all that was said in the conversation.

By Mr. Oeland:

Q. Where does Mr. Van Amburgh live? A. His home is on Orange Street, I don't remember.

Q. But you have not spoken to him about these two particular letters? A. I have not spoken to anyone during this week.

Q. Did you know that they had copies of the letters on Monday? A. No, sir, I didn't know what I was here for.

The Court: The Court suggests that if the defendants desire to cross-examine this witness that you recall her later. This witness is not discharged but will remain in attendance. We will take some other witness for the present.

AGNES HUDGINGS, called as a witness on behalf of the Government, being duly sworn, testified as follows:

Direct-examination by Mr. Oeland:

Q. What is your business? A. I don't understand what you mean.

Q. What work do you do? A. I live at 122 Columbia Heights.

Q. What do you do? A. Various kinds of work.

Q. For whom? A. For various ones.

Q. Mention some of them, please. A. I keep house principally, assisting in and around the home and various ways, and do office work particularly and at present don't do very much of anything and a little of everything in general due to ill health.

Q. You are a stenographer, aren't you? A. Yes, sir, when I am in health.

Q. But you have taken stenography? A. I have.

Q. When was the initials used on these letters when you took stenography? A. Sometimes an initial and sometimes other initials, and sometimes none at all.

Q. Didn't you frequently use the letter Z? A. I did sometimes.

Q. That is when you would write a letter you would put on the left-hand side of it the initial Z? A. Not always.

Q. Sometimes? A. Sometimes.

Q. In 1917 did you take dictation in the Hicks Street or in the Bethel Home from anybody? A. I did.

Q. Did you there sign your letters with the initial Z at the left-hand side? A. Sometimes.

Q. Did you take some dictation in January and February, 1918? A. Very little, if any.

839 Q. Did you take some? A. I wouldn't say that I did; I don't know.

Q. How long have you been working as a stenographer? A. How many years altogether?

Q. Yes. A. About ten years.

Q. What kind of a typewriting machine did you use up there at the Bethel Home or Hicks Street? A. Various kinds.

Q. What kind did you use? A. Various kinds.

Q. Are you an expert on all kinds of machines? A. No, an expert on none.

Q. Have been a stenographer for nine or ten years and you say you are not an expert? A. No.

840 Q. But you do struggle through dictation sometimes? A. Struggle through.

Q. Then you write out your shorthand notes in letter form? A. I do.

Q. You have done that? A. Sometimes.

Q. You or some of the officers around there made use of what they call a stamp signature, didn't they, a rubber stamp? A. Yes, sir.

Q. How many used a rubber stamp? A. I don't know.

Q. Can you tell us anyone that used a rubber stamp? A. I never said they used a rubber stamp. They used the Watch Tower Bible & Tract Society stamp as far

as I know and the International Bible Student's stamp. In fact I think they all used stamps.

Q. In other words, just signed it with a stamp?

A. I think so.

Q. Then did they initial it? A. I don't know.

Q. Don't you know Mr. Rutherford had a rubber stamp by which he signed his name frequently? A. I do.

Q. Have you seen that in use? A. I have.

Q. I hand you Exhibit 11 and ask you if you identify that rubber stamp there as similar to the one that Mr. Rutherford used? A. No, I wouldn't identify that stamp.

842

Q. Is there anything peculiar about that? A. I don't understand you.

Q. Anything peculiar about that rubber stamp there? A. It is the same as all rubber stamps, as far as I know.

Q. What did he have on the rubber stamp that you knew that he used? A. J. F. Rutherford.

Q. Was it the same as that (indicating)? A. I think so.

Q. Looks like that? A. Some.

Q. You have seen him use it frequently? A. Yes, sir.

843

Q. How often? A. Couldn't say.

Q. Do you see any difference between that and the one that you had seen him use? A. I have not paid such particular attention to it that I would specify.

Q. I ask you, could you see any difference between that and the one you have seen him use? A. I couldn't answer that question.

The Court: The Court is inclined to think you can, and you must answer it. The question is if you can see any difference, and you must answer that question.

The Witness: Your Honor, I might say—

The Court: I might say to you, Mrs. Hudgings, that we must have full, true, direct answers to all these questions that are asked you which the Court decides are proper. Your answers thus far have seemed to be evasive.

Mr. Fuller: I except to these remarks of the Court on behalf of each of the defendants.

845 Mr. Sparks: I ask that the witness be permitted to make the statement that was called out by the Court in view of the characterization of the Court's question to her. I ask that she be permitted to make her statement for the record.

The Court: She may make any statement she desires to.

The Witness: I was about to say that I gave an oath that I would tell the truth and the whole truth as nearly as I was able to and that I would not identify the stamp for the reason that I could not. That I did not know the stamp plainly enough so I could identify it and therefore do not wish to give false testimony.

846 The Court: This second witness seems to be taking an attitude that the Court can't permit to continue. Now, the Court has great power as to compelling a witness to answer and answer directly and has much power in case a witness is evasive in answering. This is rather extraordinary and in the case of the other witness I had her withdraw thinking that likely counsel for the defense would advise her, of someone else. Now, the question here is not for you to identify this stamp, the question was if it looked like the one you saw this person use. Ask the witness whether she was the one that used the stamp in stamping letters.

Mr. Sparks: I take exception to the Court's remarks and the general character of it as tending to make the witness say something which she has already stated she could not do. I take also exception to that part of the Court's remarks in which he says that he suggested that the previous witness might be withdrawn in order that counsel for the defense or someone else might advise her, not knowing what counsel could advise her to do in view of her testimony and in view of the position of counsel for the defendants, that the witness could not possibly answer the questions that were propounded to her by the Court and counsel.

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The Court: The Court is very much inclined to believe that the former witness could answer the questions, and that the answers that she was giving were not true answers, and while I would not deal with her hastily I became convinced if that was the case I should deal with the witness for contempt of court and perhaps in other directions because that would be the plain duty of the Court under such circumstances.

Mr. Sparks: We take exception to those last remarks of the Court and in view of them we ask for the Court to declare a mistrial and the withdrawal of a juror.

849

The Court: The motion will be denied and an exception will be noted on behalf of the defendants.

By Mr. Oeland:

Q. Did you see Mr. Rutherford use any other stamp but one? A. I did.

Q. How many did he use? A. Several.

Q. How many? A. About four or five.

Q. Were they different? A. They were.

Q. In what particulars? A. Various particulars, script and all.

Q. You noticed them close enough to see the difference in the stamps used by him? A. Not sufficiently to identify them or to see that they were the same.

Q. I asked you if you noticed them sufficiently to denote that they had a difference—namely some were script and others in different form? A. Yes, sir.

Q. Just tell us the different kinds of scripts that were used? A. I could not describe it.

851 Q. Where did you see them? A. At the Bethel Home.

Q. When? A. Various times.

Q. When did you see them last? A. I can't remember. I have not been working for them about six months or more regularly.

Q. While you were working irregularly did you see any of them? A. I think not.

Q. Did he take some with him when he traveled away? A. If he did I don't know that.

Q. Looking at that one again do you see any point of difference between it and some of the stamps that you saw him use? A. Inasmuch as the stamps were
852 different, yes.

Q. What is the difference? A. A difference in the style of them generally.

Q. What is the particular difference in style? A. I wouldn't be able to describe it.

Q. Describe it as best you can? A. The whole thing being different I wouldn't feel equal to do that.

Q. Then you would say that that is not one of his stamps, would you? A. I can't swear that it was or was not.

Q. Didn't you just say the whole thing being different that you could not say A. I could not point out anything specific.

Q. If the whole thing is different from any stamp that you saw in use you would say that that is not his stamp? A. I would say that this is so different, I could not point out anything specific in it.

The Court: We will take a recess here for a few moments and I ask the witness to examine that letter very carefully with respect to the paragraphing and punctuation, the position of the typewriter worked on the paper, the width of the margins on each side and the place where the typewriting work commences at the top and the place where there is space left at the bottom where you start your second page there, and take what time you need, and then the Court will argue upon coming in here whether you wrote that letter or not. Now, take it to the light in a side room by yourself, the Court will furnish that and take what time you want. We will take a little recess while you are doing that.

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(Short recess.)

After recess.

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The Court: Gentlemen of the jury, the Court was of the opinion that this witness wrote the letter that it had asked her to examine, that is, wrote it all on the typewriter. On going out counsel on both sides advised me that she did not write the letter and the Court was not justified in asking her to examine it in that view of the situation. So, gentlemen, please draw no unfavorable inference

by reason of this error the Court made. Counsel was merely inquiring as to the stamp and I assumed she was the stenographer that wrote the whole letter, so it was the Court's error.

By Mr. Oeland:

Q. After you have examined the stamp what is your best judgment as to whether or not that is one of the stamps used by Mr. Rutherford?

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Mr. Sparks: I object to the form of the question, I object to best judgment. A conviction of the defendants cannot be based upon the witness's best judgment as to any particular fact—

Q. What do you say after careful examination whether this was one of the stamps that were used?

A. In all good conscience I could not say if that was one of the stamps that we used.

Q. Would you say it was not? A. I would not.

By the Court:

Q. What do you most think about it?

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Mr. Sparks: I object to it, as to form.
Objection overruled. Exception.

The Witness: I could not answer the question.

Q. What are you most inclined to think about it?

A. I cannot draw any conclusion conscientiously.

Mr. Oeland: I ask that these be marked for identification.

Papers referred to marked Government's Exhibits 17 to 21 for identification.

By Mr. Oeland:

Q. I hand you Exhibit 17 for identification, and ask you to look at the letter and the attached carbon

purporting to be a letter, a reply letter, and ask you whose initials those are on the left-hand side and the Z, what does that represent—did you write the carbon copy of this letter? A. I could not say.

Q. Will you say you did not write it? A. I will not.

Q. Does the initial Z—it is the initial Z on the left-hand side? A. It is.

Q. That is the initial you used? A. Sometimes.

Q. And Mr. Robison dictated letters to you? A. He did.

Q. And then what initials on the left-hand side? A. 860
F. H. R.—Z.

Q. That is not exactly correct. It is F. H. R. with a stroke between them and then the letter Z? A. You asked me what letters.

Q. What are Mr. Robison's initials? A. F. H. R.

Q. When he dictated letters to you, did you initial them sometimes on the left-hand corner? A. I did.

Q. Did you always do it? A. No, not as far as I remember. I couldn't say that I did or did not. Very often I put nothing on the carbon.

Q. But you did sometimes put F. H. R.? A. Yes, sir.

Q. Being the initials of Mr. Robison who dictated 861
the letter? A. I did.

Q. Then when it was dictated, you would transcribe it and put the letter Z on the left-hand side, being the initial by which you were known? A. Sometimes.

Q. What is there about that that you can't identify?

Mr. Sparks: I object to that as calling for a conclusion with a negative.

Allowed. Exception.

A. I could not identify a carbon copy of a letter.

Q. You remember that he dictated letters to you?

A. I do—I don't remember any specific letter.

Q. Is that the kind of paper that you used (showing)? A. It is.

Q. What kind of a typewriter did you use? A. Various kinds.

Q. What kind is that written on? A. I could not say.

Q. No way you could recognize that as your work?

863 A. No way I can recognize it as my work and identify it.

Q. Will you say it is not a letter that he dictated?

Mr. Sparks: I object to it as to form.

The Court: Admitted.

Mr. Sparks: Exception.

A. I would not.

By the Court:

Q. Those initials therefore don't indicate that it was dictated by this person to you? A. They indicate that they have been dictated by others, two others.

864 Q. Who do you know that was using Z? A. I do not know.

Q. Do you know of anyone? A. I do not know that it has been used.

Q. Do you know anyone that was using Z at the time that letter was written? A. I don't know.

Q. Do you know anyone else that was using Z at that time in connection with his dictation? A. I know that others were employed in the office taking dictation from him at the time since I have been taking dictation from him and whether or not they used the initial I do not know.

Q. Then you don't know anyone was using Z? A. I don't know if they did or did not, no.

By Mr. Oeland:

Q. I hand you Exhibits 18, 19, 20 and 21 for identification, and ask you to examine them carefully, the carbon copies or purported carbon copies; examine them carefully and I will ask you some questions about them (handing witness papers). Each of those carbon copies have the initials F. H. R. on the left-hand side and a dash and the initial Z, have they not? A. A stroke and the initial Z.

866

Q. Can you recognize any of them as having been dictated by you or to you by Mr. Robison and having been written by you? A. I cannot.

Q. Do you know anybody else by the name of F. H. R. there? A. I can't recall anybody.

Q. Do you know whether Mr. Robison was dictating letters to you? A. I do.

Q. And you were signing them in that way? A. I do.

Q. And did you use the initial Z on letters? A. Sometimes.

Q. What was the purpose of putting down those initials on a letter except it was for the purpose of enabling you to identify those letters? 867

Mr. Sparks: I call attention to the fact that these letters are not produced by the defendants but they are produced from the custody of the Government.

The Court: It will be allowed.

By Mr. Oeland:

Q. What was the purpose, when Mr. Robison would dictate a letter to you, to put the initials F. H. R. and a stroke and then Z? A. I had no instructions to do it.

Q. Why did you do it? A. I can't say. I had no particular reason why, except I had been in the habit of doing it.

Q. Why were you in the habit of doing it? A. Because at the office where I was formerly employed there were many stenographers and the letters were filed in a general file and it was the custom to use the initials from A to Z. They were used by various persons coming and going, in turn.

Q. And you put your initials on them so you might identify them? A. At that time.

869 Q. And you kept it up when you were working for Mr. Robison? A. That would be my purpose.

Q. Who told you to use the letter Z? A. No one, I had that given to me.

Q. Why did you use it? A. I had it given to me three or four years ago.

Q. Why did you use it on Mr. Robison's letters? A. I could not say, just a simple habit.

Q. Wasn't it for the purpose of showing that you had written the letter? A. I wouldn't say that.

Q. Wasn't that the purpose that you used to use it for? A. At the time I first got the initial.

870 Q. They gave you that initial so that at any time a letter wanted to be identified you could identify it by reason of that initial on it? A. When I was given the initial first.

Q. And you kept the initial after you went with Mr. Robison? A. I did sometimes.

Q. Why did you use it then? A. I couldn't say. I had no particular reason.

Q. You had not determined that you would not identify any more letters after you commenced working for him? A. I had never determined to identify any.

Q. But you had been using the letter Z for the purposes of identification? A. I could not say that.

exclusively for the reason that many others had used that letter Z.

Q. What other person in the employ of anybody at the Watch Tower or Bethel Home in 1917 and 1918, used the initial Z? A. The manager of the office would have to answer that question, I could not.

Q. Do you know of anybody else? A. I do not know.

Q. You do know that you used it? A. I did sometimes.

Q. Can you give us the name of any other party that used it? A. I could not, the manager might possibly.

872

Q. When you did use a letter you used Z? A. Sometimes.

Q. What other letter did you use? A. "H."

Q. In what cases did you use H? A. I did not have any special cases. It was simply at random.

Q. When did you use H? A. At various intervals during my stenographic work.

Q. What did you use H for? A. I don't know, it stood for my own initial.

Q. For the purpose of identification, wasn't it? A. Yes.

Q. Don't you know in your experience as a typewriter that the reason initials are put on the left-hand side of letters is for the purpose of identifying the man who dictated it and for the purpose of identifying the party who wrote it? A. I know that is the custom.

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Q. Did you use it in this instance for that reason? A. I had no specific reason for using it.

Q. When you did use it what did you use it for? A. I used it unthinkingly, just merely from habit.

Q. If you used it unthinkingly it would help you to identify letters? A. I could not identify the letters.

The Court: The question is if it would help you identify letters.

The Witness: No, for the reasons others used the initial.

By the Court:

Q. You say you don't know anyone else using Z there? A. I do know it was customary but was not the initials of others.

Q. They wouldn't naturally dictate the same letters to different stenographers? A. They might for the
875 reason that I was not in the same office.

By Mr. Oeland:

Q. Who else had the letter Z? A. I do not know.

Q. Do you know of anybody that had? A. I don't know whether they did or not.

Q. Who gave the initials to the party? A. I received mine about four years ago.

Q. From who? A. From Mr. Ritchie.

Q. What initial? A. "Z."

Q. You have been using it ever since? A. At intervals.

Q. Why did you use Z then? A. I used it be-
876 cause it was given to me.

Recess until two o'clock.

After recess.

2:00 o'clock P. M.

Trial resumed.

MRS. AGNES HUDGINGS, recalled for further direct-examination, testified as follows:

Direct-examination continued by Mr. Oeland:

Q. What other work have you done except stenographic work at the place there? A. Household duties.

Q. Well, you mean that is at the Bethel Home? A. Yes, sir. 878

Q. Everybody lives there? A. Yes, sir.

Q. What other duties have you done—at what do you call the other place? A. The tabernacle.

Q. That is the business place? A. I attended to the mailing of letters and some filing.

Q. Who attends to shipping goods out? A. I could not say.

Q. You do not know about that? A. No, I am very little there.

Q. Your husband is an officer in one of the societies, isn't he? A. No officer.

Q. Isn't he secretary or wasn't he secretary in 1900? A. Yes, sir. 879

Q. Of what? A. Secretary of the People's Pulpit Association.

Q. He is secretary now? A. Yes, sir, as far as I know.

No cross-examination.

WILLIAM F. HUDGINGS, a witness being called on behalf of the Government was duly sworn and testified as follows:

Direct-examination by Mr. Oeland:

Q. Mr. Hudgings, what is your business? A. I am what they call the printing clerk at 17 Hicks Street. The clerk that attends to the printing orders for the society. The clerical part of it.

Q. The clerical part of it? A. Yes, sir.

881 Q. Who gives you instructions or orders? A. Well, some of the subordinate orders, that is, the small printing orders, come from the office manager.

Q. Who is the office manager? A. Mr. R. J. Martin.

Q. What? A. R. J. Martin.

Q. Well, who else gives you orders for printing? A. Some of the printing orders for the volumes come from the president of the organization.

Q. And who is the president? A. J. F. Rutherford.

882 Q. Well, go ahead. Where do you get orders from and from whom else? A. I think that is about all. Of course some of the orders originated there in the office are not necessarily from the office manager, that is not without knowledge, but stationery and so forth that come in the regular course of the business.

Q. It is done with his approval? A. Well, he usually does not know about those.

Q. You mean the ordinary stationery orders? A. Yes, sir.

Q. But printing orders and publishing orders come from him? A. The keeping up of the stock, when the stock runs low, not in the regular things, we have been doing for years. Sometimes I put in those orders myself.

Q. You are an officer of one of the corporations?

A. I am secretary of the People's Pulpit Association.

Q. Are you the husband of the last witness that was on the stand? A. Yes, sir.

Q. Now, what work does MacMillan do in the organization? A. Well, he is assistant to the president and has general supervision of the work in the office.

Q. Well, do you mean by assistant to the president that when the president is away he acts for him? A. In certain capacities, yes, sir.

884

Q. Well, what are the capacities in which he acts?

A. Well, anything in connection with the work I would ordinarily ask the president, but in his absence I would ask Mr. MacMillan about it.

Q. Well, now, what does Van Amberg do? A. He is a treasurer of the society.

Q. Of what? A. Of the Watch Tower Bible & Tract Society.

Q. He is treasurer also of the People's Pulpit? A. People's Pulpit Association.

Q. You applied for a copyright on a book known as "The Finished Mystery"? A. I think I did enter the request for that copyright.

885

Q. Who instructed you to do that? A. I do not know that I received any instructions, but that would come in my regular course of work.

Q. Well, who told you it was going to be copyrighted in the name of the People's Pulpit Association? A. I am not certain now that the matter was discussed, but if it was discussed, of course, it was with the knowledge of the president of the association.

Q. No, but who told you that the application for the copyright would be made in the name of the People's Pulpit Association? A. I am not certain of it, that I received any definite instruction about that.

Q. Well, it was not paid for by the People's Pulpit Association? A. The copyright, as far as I know, was.

Q. But the printing of the book was paid for by the Watch Tower Bible & Tract Society? A. Out of the funds, as I understand it. I have nothing to do with that part.

Q. How do you know it was going to be copyrighted in the name of the People's Pulpit Association? A. Well, I was an officer of the People's Pulpit Association. I have copyrighted other volumes in that name.

887 Q. I know, but the People's Pulpit Association was not paying for this volume. Where did you get instructions, or how did you learn that it must be copyrighted in the name of the People's Pulpit Association? A. The People's Pulpit Association is an organization of New York State that does business with the Watch Tower Bible & Tract Society.

Q. The People's Pulpit do not carry any accounts in New York State, do they? A. The account is kept in the name of the Watch Tower Bible & Tract Society.

Q. And, then, you have not given any name in the People's Pulpit. This is all in the Watch Tower Bible & Tract Society? A. It might raise a dollar to pay
888 for the copyright.

Q. How is that? A. It might raise a dollar to pay for the copyright.

Q. Is that the best answer you can make that nobody instructed you to have it copyrighted? A. I do not remember any specific instructions on that point.

Q. Where did you get your ideas as to who were the authors? A. Authors?

Q. Yes. You made an affidavit, didn't you? A. Yes, sir.

Q. Where did you learn who the authors were? A. It is stated in the preface of the volume.

Q. Is that all you learned about it? A. The compilers, I believe, I stated in the affidavit.

Q. Is that all you learned from what was in the preface? A. It was the general knowledge that Mr. Woodworth and Mr. Fisher were compiling the seventh volume.

Q. What do you mean, "general knowledge"? A. Well, I knew that they were engaged in the preparation of the manuscript.

Q. And did you talk with either one of them about it? A. No, sir.

Q. And if you did put in your affidavit that the names of the authors were C. J. Woodworth and G. H. Fisher, compilers—rather, authors—I used the wrong word—you just got that from the common knowledge from the preface in the book? A. The preface in the volume.

Q. And no one told you to have it copyrighted? A. No, sir.

Q. You just did that of your own free will and accord? A. That would be in my regular course of business.

Q. You did not have any meeting of the directors to pass upon that? A. Not that I recall.

Q. You did not consult with anybody about it? A. No. 891

Q. Who attended to the distribution of the copies, the sale of them? A. I do not understand the question.

Q. Well, when you got the book you sold it, didn't you? A. Yes, sir.

Q. And you were secretary and treasurer of the People's Pulpit Association, and you did not sell it? A. I did not say that I was secretary and treasurer of the People's Pulpit Association.

Q. What was your answer? A. That I was secretary.

Q. Not treasurer? A. No.

Q. Van Amberg is the treasurer? A. Yes, sir.

Q. Who attended to the sales of the book? A. We have a colporteur department that handles the orders that come in for the volume.

Q. As fast as you had to send an order out where they were being printed for distribution, who would handle that? A. The colporteur department would handle the order for a shipment to them.

Q. Who had charge of that? A. Mr. Martin had general charge, of course.

893 Q. Who else looked after it? A. Well, other various clerks in the department, I think about ten.

Q. Who had general supervision? A. Mr. Martin.

Q. You said you were looking after the printing work; are you a printer? A. I am not a practical printer, no, sir. I look after the clerical work.

Q. And the general orders are given to you by whom outside of the ordinary buying of some material for the office; who gives you orders for printing? A. As I stated before they come from the office manager. From the assistant to the president, or the president.

Q. Those three? A. Yes, sir.

894 Q. I hand you Exhibit 22 for identification and ask you if you had that printed in Italian? A. I did not, I never saw it before.

Q. You never saw that before? A. No, sir.

Q. Who attended to the Italian Department there?

A. I attended to the Italian printing ordinarily. Mr. DeCecca, as I understand, handled the correspondence.

Q. Italian correspondence? A. Yes, sir.

Q. Will you state that was not printed by order of the Watch Tower Bible & Tract Society, the People's Pulpit Association or the International Bible Students' Association? A. I state it was not printed by them as far as my knowledge goes.

Q. Who did your Italian printing? A. It has been done by many different Italian foreign language printers in New York City.

Q. Well, give us the name of some of them? A. The International Press, the York Printing Company and one or two other foreign language fellows that I cannot remember their names.

Q. You had a lot of printing done in foreign languages? A. We had some.

Q. German? A. Yes, sir.

Q. Italian? A. Yes, sir.

Q. Hebrew? A. Yes, sir, Yiddish.

896

Q. Well, I mean Yiddish. I call it the Hebrew language. A. Yes, sir.

Q. Who did the German printing? A. B. Newman did most of it.

CROSS-EXAMINATION by Mr. Fuller:

Q. Mr. Hudgings, how long have you been a member of the International Bible Students' Association?

A. About ten years.

Q. And how long have you been secretary of the People's Pulpit Association? A. Less than two years.

Q. How long ago was the People's Pulpit Association incorporated? A. The People's Pulpit Association has been incorporated, as I recall in the year 1909.

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Q. Do you know the year in which the International Bible Students' Association was incorporated? A. In 1913, I think.

Q. Do you know how long the International Bible Students' Association has been in existence as an association? A. As an unincorporated association since 1884.

Q. And where are the headquarters of the International Bible Students' Association? A. The American headquarters are in Brooklyn, New York.

Q. At Hicks Street? A. Yes, sir, 17 Hicks Street.

Q. Are these three organizations or associations affiliated in the carrying on of this religious work? A. Yes, sir.

Q. And the Watch Tower Bible & Tract Society, and the People's Pulpit Association are incorporated, in order to carry into effect various business contracts and business matters, is that so? A. Yes, sir.

Q. And the International Bible Students' Association is the generic term referring to the religious association and its membership? A. Yes, sir.

899 Q. Are there classes organized in the various parts of the country or world which form part of the International Bible Students' Association? A. Yes, sir, in all parts of the country.

Q. Do you know how many such classes there are in the United States? A. Probably three thousand.

Q. And can you tell what the aggregate membership of such classes in the United States is? A. Approximately 75,000, I should say.

Q. In the United States? A. Yes, sir.

Q. Now, who organized this International Bible Students' Association? A. Pastor Russell.

900 Q. Do you know when he commenced the organization of this association? A. I understand it was about 1884 or earlier.

Q. Are the religious principles of the association set forth in book form anywhere? A. Yes, sir.

Q. And what is the name of the book or set of books in which the religious principles of the association are set forth? A. "Studies in the Scriptures."

Q. And what connection has "Studies in the Scriptures" in that set of books to the Bible? A. What connection?

Q. What is the relation? A. It explains and elucidates all parts of the Bible.

Q. And the interpretation of the Bible and its vari-

ous parts, books and chapters which were made or was made by Pastor Russell in the course of his studies and his preachings; is that so? A. Yes.

Q. Do you know whether or not these books are used by the various classes of the International Bible Students' Association? A. They are.

Q. And they use its text books? A. Yes, sir.

Q. Do you know how many copies of the six volumes preceding "The Finished Mystery," that had been printed and placed in circulation? A. I can give that approximately. Volume I, 5,250,000. Volume II, 2,000,000. Volume III, 2,000,000. Volume IV, 500,000. Volume VI, 500,000. 902

Q. Volume V? A. Volume V, about 500,000.

Q. And Volume VI, about 500,000? A. Volume VI about 500,000.

Q. By whom were these six volumes written? A. Pastor Russell.

Q. And in the course of these six volumes or any of his writings, was any mention made as to the advent of another volume?

Mr. Oeland: That I object to.

The Court: I will allow it. You may answer. 903

A. Yes sir, not only in the preface of the earlier edition, but in many other writings of Pastor Russell it was set forth that there would be seven volumes in the series.

Q. That is to say, the plan pursuant to which the six volumes were published during the lifetime of Pastor Russell contemplated seven volumes as a complete set for the interpretation of the doctrine of the Scriptures as accepted by the association? A. Yes, sir.

Q. Now, you do know whether or not it was in pursuance of and in completion of that plan that the

seventh volume, known as "The Finished Mystery" was published? A. It was.

Q. And when did Pastor Russell die? A. In October—October 31, 1916.

Q. Now, you reside at 122 Columbia Heights? A. I do.

Q. Are there any persons residing at 122 Columbia Heights who are members of the International Bible Students' Association? A. There are.

Q. Are they all engaged in carrying on the work of that association? A. They are.

905 Q. Can you state how many individuals, on the average reside at 122 Columbia Heights? A. About seventy-five.

Q. About seventy-five? A. Yes, sir.

Q. And how many buildings do the premises there consist of? A. No. 122 and No. 124, running through to Furman Street.

Q. 122 and 124 Columbia Heights are three story and basement brownstone buildings of the old type of residence? A. Yes, sir.

Q. And on the rear plot is erected a nine story building, and those are the premises you refer to when you speak of 122 Columbia Heights? A. Yes, sir.

906 Q. Now, the work of preparation, the printing of the various books and papers that are issued in the course of your religious work is largely carried on there, is it not? A. Yes, sir.

Q. I do not mean the actual printing, but the preparation for it? A. Yes, sir. The editorial work.

Q. Practically all the editorial work is carried on there? A. Yes, sir.

Q. And cancellations are made there? A. Many of them.

Q. And the work preliminary to the sending forth of the various messages is done at that establishment? A. Yes, sir.

Q. And the various persons residing there are constantly engaged in the carrying on of that work? A. Yes, sir.

Q. And do they receive any compensation for that work? A. They receive allowances. Formerly \$10 a month; and now \$15 a month, by reason of the high cost of living.

Q. To whom of the persons living at 122 Columbia Heights, and engaged in this work, does that allowance apply? A. It applies to all of them alike.

Q. From the highest to the lowest member of the organization? A. They all receive the same allowance exactly. 908

Q. Regardless of the work they are carrying on? A. Regardless of the office they occupy.

Q. And that applies equally well to the president of the association, Joseph F. Rutherford? A. It does.

Q. And to the person who prepares the meals? A. The same exactly.

Q. The cooking, the cleaning and all of that character of the work done by members of the association resident on the premises? A. All work is done by members.

Q. Now, in addition to these seven books you also publish a magazine known as the "Watch Tower"? 909

A. Yes, sir.

Q. When was the publication of that magazine first commenced, if you know? A. In 1879, I understand.

Q. And by whom was it commenced? A. Pastor Russell.

Q. Founded by Pastor Russell? A. Yes, sir.

Q. Used as a vehicle for expounding his doctrines? A. Yes, sir.

Q. And that is published twice weekly? A. Twice a month.

Q. Do you know how many subscribers there are for this paper? A. About fifty thousand.

Q. Throughout the United States? A. Yes, sir, and other parts of the world.

Q. What can you say about how many there are within the United States? A. About three-quarters, I guess.

Q. Was Pastor Russell in the habit of using this paper for the purpose of expounding the meaning of various parts of the Scriptures? A. That is what it is used for exclusively. It carries no advertisements.

911 Q. And he continued the editorial work; to be the editor-in-chief of that paper up to the time of his death? A. Yes, sir.

Q. Now, the "International Bible Students' Monthly," when was the publication of that paper commenced, if you know? A. I think in 1909.

Q. Has it been suspended? A. Not—it has been published regularly up to this year.

Q. Is it being published now? A. Yes, sir, the last issue was published about two or three months ago, though, I think.

912 Q. Now, who was the editor of that paper prior to Pastor Russell's death? A. It was composed almost exclusively of sermons of Pastor Russell, and while it stated on the second page it is published by the I. B. S. A., International Bible Students' Association, we might say that Pastor Russell was the editor of that paper.

Q. And wrote almost all of the subject-matter that was embodied in the various editions of the paper? A. Yes, sir.

Q. Did Pastor Russell do much preaching while he was living? A. He traveled about 75,000 miles a year, preaching sometimes eight or ten times a week.

Q. And preaching every week? A. Preaching every week.

Q. Several times every week, is that so? A. Yes, sir.

Q. Are there any other preachers connected with the International Bible Students' Association? A. Yes, sir, many of them.

Q. How many can you state, how many preachers have you? A. About fifty that itinerize under the auspices of the association regularly.

Q. That is to say, the International Bible Students' Association knows the record of assignment of the various individuals who preach in various places? A. Yes, sir.

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Q. And they are sent out to these places and preach? A. Yes.

Q. Those are traveling preachers, are they? A. Yes, sir.

Q. What is the character of the devotional exercises which take place in the various Bible classes, various classes, or ecclesias of the International Bible Students' Association; that three thousand you refer to? A. The International Bible Students' Association have classes at different localities, usually many of these each week meet for the purpose of the study of the Bible, using as text books the various volumes or studies in the Scriptures and the Bible Concordances, and so forth.

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Q. Are there any sermons delivered at these ecclesias? A. Very frequently. They have one of the number that discourses.

Q. Are there in any of these classes—is there any one individual whose function it is to preach from time to time? A. Yes, sir, in practically all classes, they have what we designate as elders, who are elected by the body, and their purpose is to deliver discourses from time to time.

Q. Sermons? A. Sermons.

Q. Now, you say elected by the body, can you state

what it is that determines the membership of the body which engages in the election? A. Yes, sir, we follow the Scriptural rule exactly. As we have no indication in the Scriptures that the early church kept any earthly church roll, neither do we, but as the Apostle Paul states the names of the Church of the First Born are written in heaven. Therefore, we make it very clear that no one is permitted to vote at our meetings unless they profess to full consecration to the laws and understand the Scriptures as assembled. That is the custom to meeting in that respective place. No one is permitted to vote while he is not a regular attendant at these ecclesias, who considers himself as a member of that particular class and is recognized by the others as such.

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Q. Is there any form or ceremony customarily performed to indicate the consecration of the laws previous by a person about to take or becoming a member?

A. Yes, sir, we practice the water baptism, which is the outward symbol of initiation in the association and in the Body of Christ, which is the Church.

Q. Now, the principles of the membership of the International Bible Students' Association are set forth in these seven volumes, is that so? A. Yes, sir.

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Q. And also in the Bible? A. The Bible.

Q. Do you recall—do you regard the Bible as final authority in determining your conduct as men and as Christians? A. We do absolutely.

Q. Do you accept the Bible as an inspired book? A. We do.

Q. As true? A. Absolutely true.

Q. Are there any modifications as to truth, the full truth of the Bible at any point in your interpretation of the Bible, or your attitude towards it? A. No. Our interpretation of the Bible, of course, differs very materially from the teachings of other bodies, and we recognize also that various translations of the

Bible have their merit and demerit, but we believe that the original Scriptures, when correctly translated, convey the truth, and is therefore the highest authority to guide the conduct of the Christian.

Q. And you accept the entire Bible as true? A. Both the Old Testament and the New.

Q. And all parts of it? A. All parts of the Bible.

Q. The transaction of the religious work of the International Bible Students' Association calls for the expenditure of a good deal of money? A. Quite a sum.

Q. Do you receive that money from the classes? 920
A. We never take a collection.

Q. How do you receive the money that is used for the religious work of the association? A. It is a very interesting feature. Those who become interested in the religious activities of the society, who can appreciate the truth of the Bible as set forth in our publications, usually appreciate that knowledge and the pleasant thought it has brought them to such an extent that they are anxious to carry that work on, and Pastor Russell adopted the policy of never asking for a collection to be taken up at any of his meetings. I understand that he never did, and all the forty years of his work he never took up a collection, and neither do we. But, we find that those interested in the work are very glad to contribute as they have the means and opportunity in carrying on the work.

Q. Once a year you published in the "Watch Tower" a proposed form that members can sign, designating the amounts and the sums each will give as subscriptions? A. Yes, sir; we do. Usually in December we issue—we have a little form that the various members may fill out, in which they express their expectation of contribution towards the carrying on of the work, but it is not binding. If they fail to contribute that sum, there is nothing said about it. 921

Q. And that is used for the purpose of forming a sort of a budget or estimate as to the probable resources of the association for the following year?

A. Yes, sir; for what printing we may be able to do during the coming year.

Q. Now, those contributions that are received in that fashion are in form sent to the Watch Tower Bible & Tract Society; is that so? A. Yes, sir.

Q. And that is used in its corporate capacity as an organization for financing the religious work of the organization? A. Yes, sir.

923 Q. The property in the State of New York is held in the name of the People's Pulpit Association; is that true? A. Yes, sir.

Q. And the purpose of holding that property was one of the purposes for forming the People's Pulpit Association, in incorporating it? A. Yes, sir.

Q. Now, apart from that single publication for contributions in the month of December, or whenever it is, is there ever any appeal of any character for funds made by the association or representatives of the association? A. I have never heard an appeal made in any of our classes asking anyone to contribute a single cent.

924 Q. Or in any of your publications? A. Nor in any publication, aside from this little form that is included once a year in the magazine.

Q. And at what price are these volumes known as the "Studies of the Scriptures," seven volumes, sold with respect, or in comparison to the cost of preparation of those volumes, if you know? A. Well, they are sold to the members at practically cost; probably three or four cents more than they cost, so as to cover the clerical work in connection with the sending of them out.

Q. And they sell them at some larger price; is that so? A. Yes, sir.

Q. Sufficient to cover their maintenance and expenses? A. Yes, sir.

Q. So there is no profit whatever realized by the association, or any of this organization from the distribution of this book; is that so? A. We are organized not for profit.

Q. Do any of your publications carry any advertisements paid for by anybody? A. None of them, nor ever have.

Q. Did you have an annual convention of the International Students' Association? A. Yes, sir; we have many of these. We have our annual business meeting.

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Q. And what is the purpose of the annual business meeting? A. Of electing officers for the coming year, and in connection with this we usually have many discourses and make it a general convention for Bible students.

Q. That is to say, the International Bible Students? A. Yes, sir.

Q. Do you have any devotional exercises? At 122 Columbia Heights? A. Every day and class meetings many times a week.

Q. Do you have a devotional exercise at noonday meal, do you? A. At all meals.

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Q. And those devotional exercises include what? A. In the morning we have prayer and song services, and then Bible discussion during the meals.

Q. And at noon? A. At the morning, noon and evening meal.

Q. The same procedure at each meal? A. Seven days in the week.

Q. Do you, in your religious devotional exercises, do you carry on the same services, the same devotional exercises on week days that you do on the Sabbath Day? A. Yes, in that respect.

Q. Now, do any of these persons engaged in the work at 122 Hicks Street, residing there, carry on Bible classes? A. 122 Columbia Heights?

Q. 122 Columbia Heights, I should say? A. Practically all of the male members of the office force carry on the Bible classes.

Q. That is to say, they are elders of the Bible classes that are carried on at definite periods at the same session of the surrounding territory; is that so? A. Yes, sir; and they go out on Sunday preaching.

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Q. That applies alike to men who cook meals and attend furnaces? A. Yes, sir. If they have any ability at all, they are given appointments.

Q. Can you state, Mr. Hudgings, a summary of the principles of the International Bible Students' Association with respect to the participation in the war? A. Just briefly I would say that we follow the Bible teaching as we understand it in respect to war, which is that the church is a separate and distinct company from the world.

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Q. From what? A. From the world in general, that while the world is expected to carry on its various activities, including war, when they are invaded and so forth, nevertheless, the footstep followers of the Lord, and are spoken of by Him as having been called out of the world. It says: "I have chosen you out of the world." We understand that means that the church is not to be classed in with the world in general, and its various worldly pursuits, but they are—their chief mission is to set an example so far as they can, or a standard, living as near as they can like Jesus lived, and as He stated for them that they were not to have carnal weapons, and they were not to take the sword, we would understand that this company, which is very small and insignificant in comparison to the rest of the world of mankind are to that extent exempt by the divine law from combatant

military service, and it would be, therefore, a violation of their consecration of the laws, and a violation of their consciences to break the commandment "Thou shalt not kill," and many other expressions in the Bible. But, it was very clearly indicated by the Lord that the whole church from His first advent down to the present time would be so small that it would not interfere in any way with the military activities of the various nations; He mentioned the whole church as being but a little block, and some Scriptures seem to indicate that there would not be but 150,000 or less of these consecrated followers of the Lord from Jesus' day down to the second advent.

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The Court: You would allow anyone to join this association that wants to?

The Witness: Anyone that passes the full consecration, but we find this a very, very small number.

The Court: How do you know it is small? You say you have no record of it?

The Witness: We find that not very many, even including the ministers of the various denominations who would in private conversation admit that they had made a full absolute consecration to the Lord, which means that they would say in everything not my will but Thine, but do not. We usually find the vast majority even of ministers, would prefer to have their will in preference to the Lord's, in certain respects.

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Q. When you speak of persons being consecrated to the Lord, you do not mean to imply that in order to be consecrated to the Lord it is necessary for them to join the International Bible Students' Association?

A. No, we do not. We think there are such in all denominations, Catholic and Protestants.

Q. And it is your effort within the International Bible Students' Association to make that body, people all who are consecrated to the Lord? A. Yes, sir.

Q. Do you know when Pastor Russell first began to teach doctrines that came to be developed and extended into these seven books? A. I think when he was about twenty years old. When he was quite young, about forty years ago, or more.

Q. That would be almost in the early seventies? A. 1874; somewhere along there.

935 Q. Now, can't you sketch very briefly that aspect of the doctrine as you believe it to be, at least that aspect of God's will and the purpose as you believe it to be set forth in the Scriptures which suggests the time and the nature and the advent of the Millennial period? A. We understand the Scriptures to contain a very complete system of Bible chronology. Pastor Russell for the past forty years has published in, I am told, no less than thirty languages, the various prophetic features furnished in the Bible of the times in which we are living, and has pointed out for many years that 1914 would witness the beginning of the great war that is told in the Bible, which would be a forerunner of Messianic Kingdom. He found this
936 stated in the Bible, and therefore merely pointed out the teachings of the Prophets in this respect. He was not a prophet himself; he was merely an expounder of what the Prophets had written, which were Zekihial and others, and he found that the period between the overflow and the typical Kingdom of Israel down to the establishment of the Antypical Kingdom, a period of 2520 years, which expired in 1914. Upon the strength of this, he pointed out that that year we should expect that the great Antypical King, Jesus, would begin the manifestation of His power, which is

also stated in the Scriptures to be the dashing of the nations to pieces as a potter's vessel, and the time of trouble such as the world has never known since there was a nation. And when he would come the nations would be angry and His wrath would compass. Stated by Prophet Zephaniah in Chapter III, Verses 8 and 9, he says: "Wait ye upon Me, sayeth the Lord, until the day that I rise up to prey for it is My determination to gather the nations and assemble the kingdoms and call upon them Mine indignation. Even all my fierce anger and then will I turn unto the peoples that pure message that they may all call upon My name and serve me with one consent." Pastor Russell, therefore, taught in the "Studies of the Scriptures" that this would begin in the year 1914, and the Bible Students, therefore, were not surprised when, in the fall of 1914, the great war broke out. They would have been surprised if it had not begun, and instead of the Bible students being against this war, if they be true, they would be against the very foundation of their belief. But they are merely trying to follow in the footsteps of the Master, therefore, hold themselves aloof from the activities of the world in this respect.

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Q. By the phrase "being against the war," you mean that the Bible students recognize the war as a consequence of conditions long obtaining, and in view of the existence of these conditions as inevitable consequences? A. Yes, sir; and that the Lord had foretold it, and therefore, it must come and to be against it would be to be against what the Lord has said.

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Q. Is it your idea that the Lord decreed that the war should come, can you tell me just what the char-

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acter of the prophecy is in that regard? A. I understand that the Lord did not decree that the war should come; but He merely foretold it, because of the conditions that would prevail at this time, that he would hold this generation responsible for their neglect of knowledge and their neglect to accumulate knowledge that would come through past generations, and knowing the selfish nature of man and the course he would take, the old Prophets of God were able to foretell when this would consummate, and how it would, it would be utilized to teach mankind a great lesson before they would be proper to receive the Millennial Kingdom which would follow.

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Q. And this period of 2520 years, you say, that 2520 result in the year 1914, by being applied to some earlier, is it not? A. Yes, sir.

Q. Is the authority for both the number of years and also the authority for measure from which that number of years should run, set forth, in your view, in the scriptures? A. It is. The day we begin to figure from was the overflow of the typical Kingdom of Israel—of their lost king, Hezekiah, in 606 B. C., and the Prophet Ezekial pointed out that the kingdom would be overthrown until He comes whose right it is, and the period of the overthrow of that kingdom to the time that the Antypical Kingdom would be doubled or begin to manifest its power would be 2520 years. 606 B. C., to 1914 is 2520 years, and the first manifestation of Messiah's power was, as stated, the dashing of the nations to pieces as a potters' vessel and then He says: "Upon the ruins of these

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kingdoms will God of Heaven set up a kingdom that will never pass away."

Q. How long has Pastor Russell been preaching that doctrine as of the Messianic Kingdom? A. Back in 1870.

Q. That is not in the doctrine or issuing from his lips or from his books immediately prior to the war of 1914? A. Not at all.

Q. And for some years the members of the International Bible Students' Association familiar with his doctrines, consecrated to the Lord's purpose, have been looking forward to the year 1914 for the fulfillment of that prophecy? A. Yes, sir.

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Q. Now, how long has the Messianic Kingdom, as you used that term, synonymous with the term millenium, been employed? A. Of course, the word millenium is a production of the two Latin words "milo" and "annum" meaning a thousand years, as applied to the first thousand years of this great period that is to follow. It is spoken of as the thousand years during which the resurrection of the dead will take place and the restoring of mankind back to the original perfection in the Garden of Eden before the original man fell in sin and death.

Q. And that process, according to the Bible, as you give it, is to be taking place throughout the period of one thousand years, commencing in the year 1914? A. Yes, sir; with the overthrow of kings over their own autocracy and all that establishment of the new order of things.

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Q. And that period you regard as the initial stage of the larger period which you call Messianic Kingdom; is that so? A. Yes, sir.

Q. I show you a copy of "Watch Tower," Volume 27, dated July 15, 1906, marked No. 14, and ask you to state whether the words beginning on the end of page 25, the sentence commencing on the end of page

235, and extending down twelve lines on page 236, first column, and ask you if those words were written by Pastor Russell? A. Yes, sir. That was one of our special issues of the "Watch Tower" of which we sold many extra copies. Those were the words of Pastor Russell. I have heard him utter them orally many times, also.

Mr. Fuller: I offer that in evidence.

The Court: It is admitted.

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The paper is marked Defendants' Exhibit B in evidence and was read to the jury by Mr. Fuller.

Q. Is the "Millennial Dawn" the title of one of the six books? A. That was the serial title originally, of the six books which was later changed to "Studies of the Scriptures," because many people did not understand the meaning of millennial dawn.

Q. This was published—this statement was published in July, 1906; is that right? A. Yes, sir.

Q. The "Watch Tower" of that date? A. Yes, sir.

Q. Now, this book "The Hidden Mystery"; is that the name of it? A. "The Finished Mystery."

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Q. As published, is the seventh volume referred to in this paragraph? A. It is.

Q. And is comprised of the expounding of the Apostles in the Book of Revelations and in the Book of Ezekial? A. Yes, sir; as I stated in the article.

Q. You are familiar with that book? A. Yes, sir.

Q. It consists of setting forth, does it not, a portion of each verse of each of these chapters, beginning with the first verse, or a phrase or portion or perhaps the full verse, in black type, and then a paragraph discussing the meaning of that verse or portion of the verse? A. Yes, sir; it is in commentary form. It takes up every verse in the Book of Revelations and

the Book of Ezekial. It quotes the first verse and then gives an explanation of that verse. From the Bible students' standpoint this and this alone constitutes the book, "The Finished Mystery."

Q. Now, Mr. Hudgings, I show you Exhibit 3-A and ask you to take a copy of the book known as "The Finished Mistery," and ask you if you will turn to page 247 which is the beginning—

The Court: How far do you propose to pursue this subject?

Mr. Fuller: I am almost finished, your Honor. 950

Q. (Continued.) Which is the beginning of the excerpt: "Now, it came out of the mouth of the dragon," that is the middle of the phrase in the Bible, is it not? Revelation, Chapter 16, Verse 13. Will you read from pages 246, 247, 249 and 253, the complete 13th verse of the 16th Chapter of Revelations?

The Court: Why is it necessary for him to do that?

Mr. Fuller: Only I want to get clearly in mind what the discussion is about. It is just one sentence.

A. (Reading.) "I saw three unclean spirits as it were frogs come out of the mouth of the dragon, and out of the mouth of the beast and out of the mouth of the false prophet." 951

Q. Now, the first of that verse: "I saw three unclean spirits," is in black type at the bottom of page 246? A. Yes, sir.

Q. And the verse and the chapter from which that is taken are indicated by numerals at the left-hand side? A. Yes, sir.

Q. And the verse which is connected by immediately preceding that is the 16th chapter, 12th verse? A. Yes, sir.

Q. And so on, both in the earlier part of the book, it is the earlier verses of Revelations and in the latter part of the latter verses of Revelations? A. Yes, sir.

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Q. And following this phrase: "I saw three unclean spirits," what is the relation between that phrase and the printing in the same paragraph immediately following it, which reads: "Denoting demoniacal origin. The Lord's people must discriminate between doctrines presented to them as truth—they must 'Try the spirits' whether they be holy or evil, of God or of the Evil One—the spirit of truth or the spirit of error. These both are introduced by prophets or teachers." What is the relation between those two? A. That is the explanation of this particular portion of that phrase leading up to the conclusion.

Q. What it means under your principles of interpretation of the Bible? A. Yes, sir.

Q. And does the phrase: "As if it were frogs," and which is known by you as the 13th verse of the 16th chapter of Revelations? A. Yes, sir.

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Q. And the paragraphs following that phrase on page 247 of "The Finished Mystery," is your explanation, that is to say, the International Bible Students' explanation of the meaning of that phrase; is that so? A. Yes, sir.

Q. And so on with each additional phrase of the portions of the book that are in evidence, and of the entire book? A. Yes, sir.

Q. Now, you note that the first paragraph on page 247, at least, the second paragraph on page 247: "Come out of the mouth of the dragon"—there are no quotation marks at the beginning or at the end of that? A. No, sir.

Q. Now, the second paragraph commences a series of quotations which run down almost toward the end of page 249, which wind up with the words "C.

E. Jefferson, American Association for International Conciliation." What is the absence of the quotations in one paragraph and in the presence of them in a subsequent paragraph mean in the compiling of the work? A. I would understand that where there is no quotation marks given, that that is the work of the compiler of the volume. This particular part of the volume, and the quotations show to whom the matter should be accredited.

Q. And do you know whether in the course—you have read this entire book, have you? A. Yes, sir.

Q. And you know whether in the course of the book there are many quotations used as a means of citing evidence as showing the fulfillment of minor details in your prophecies? A. Yes, sir.

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Q. The creed and the principles of the International Bible Students' Association, set forth in these seven volumes, are authoritative recognition of Pastor Russell and the "Watch Tower" and the Bible; is that so? A. Yes, sir.

Q. And those principles forbid those members of the association who have consecrated themselves to the service of the Lord from engaging in military service? A. In competent military service.

957

CROSS-EXAMINATION by Mr. Sparks:

Q. Do you know the attitude that the authorities in Germany took in reference to the society and its work?

Mr. Oeland: That I object to. He cannot know that.

The Court: It would be hearsay evidence.

Mr. Sparks: No, I do not think so.

The Court: How would it be material what the attitude was?

Mr. Sparks: It proves the question of intent which goes largely to the question of intent.

The Court: This whole matter is more properly the defense.

Mr. Sparks: It is proper on cross.

The Court: We will find out if this is hearsay, first of all. Do you know about the attitude of the German Government as what someone told you or what you read in some announcement?

The Witness: I saw an original letter from Switzerland—

The Court: That may be excluded then, if you saw it in a letter.

Mr. Sparks: Exception. They have been permitted to prove by these other witnesses as to who were the authors of the "The Finished Mystery."

The Court: No; they have not been permitted to do anything of the kind. This question is excluded.

Mr. Sparks: This witness was asked—

The Court: I do not care to hear you any further on that question.

Mr. Sparks: Exception.

Q. Was it a matter of common knowledge among your associates in your work as to what the attitude of the Imperial German Government towards this, your work?

Mr. Oeland: That is objected to.

The Court: It is excluded.

Mr. Sparks: Exception.

Q. Do you solicit any persons to join with you in your work; did you solicit any person to join with you in your work? A. We do not.

Q. Any person who joins with you, he does it voluntarily and without any urging from any member of the society? A. That is so.

Q. And do you know Mr. Woodworth personally?
A. Mr. who?

Q. Mr. Woodworth? A. I do.

Q. How long have you known him? A. About eight years.

Q. Do you know him as a Bible student? A. I do.

Q. And is he also a member of the association?
A. He is.

962

Q. I show you a book copyrighted in 1909 by the Watch Tower Bible & Tract Society, and ask you if you know who wrote that? A. Mr. Woodworth told me that he made these Bible comments in the rear of our Bible—

The Court: That would not be admissible, what Mr. Woodworth told him. That answer is stricken out. That is hearsay, what Mr. Woodworth told him.

Mr. Sparks: They proved that—they proved by their own witnesses a number of things that Mr. Woodworth said, and also Mr. Fisher. I believe Mr. McHenry was on the stand when the same procedure was adopted of asking him—

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The Court: Admissions made by a person against himself are admissible, but not in his own favor. It is the merest hearsay by all the rules of evidence.

Mr. Sparks: Exception.

Q. Is that a book that is used by the members of your association? A. It is.

Q. And what is its character? A. It is the old Bible by concordance and comments.

Q. And the style of it and the arrangement of it, does the seventh volume follow the arrangement as in that book? A. It does.

Q. And in the Bible there is an explanation of what they mean? A. Yes, sir.

Q. Will you turn to the explanation of Revelations—have you found it? A. Yes, sir.

Q. The 16th chapter—

The Court: Does the Government take the position that this is cross-examination? It is not cross-examination in any sense.

Mr. Oeland: It is entirely new matter brought out by them and I will have to cross-examine him on it. It is not cross-examination.

The Court: This is not cross-examination?

Mr. Oeland: No, sir.

The Court: It is new matter and should more properly come after the Government has rested.

Mr. Oeland: Yes, sir; that is correct.

The Court: If it is going to be pursued in this respect, the Court, of its own motion, will ask counsel to adopt the other course. I have heard no objection as yet.

Mr. Oeland: When it started, I did not conceive of the full scope that they were going into. I thought I should have objected, and I shall with future witnesses. They ought to be required to make their own defense in their own case.

The Court: Well, we will let them finish with this witness.

Mr. Oeland: I did not object at the proper time, and for that reason I have not urged the objection.

Mr. Sparks: The Government must prove intent in all of these crimes, and if, by cross-examination of the witnesses that the Government puts on, we can clearly establish there was no intent, you can do it just as well on cross-examination of the Government witnesses as you can on your own defense.

Mr. Sparks: We got to the 16th chapter there?

The Witness: Yes, sir.

Q. Do you find any similar explanations in that book as are contained in "The Finished Mystery"? 968

A. Yes, sir; they are the same except the preface.

Q. That is, the explanations given in that book are the same except their prophecy in that book was copyrighted when? A. 1909.

Q. And those explanations there are also contained in "The Finished Mystery"? A. In more elaborate form.

Q. And where is the material, the explanation of this "Biblical Apostles" culled from? A. From writings of Pastor Russell.

Q. I understand that the position that the various members of your association take is that they are ministers of the Lord? A. Yes, sir. 969

Q. And that in this country as well as in all other civilized countries, the regular ordained ministers are not required to engage in military service?

Mr. Oeland: What happens in other countries and what other rules there may be, he cannot answer. He cannot answer what other people may do. I object to that question. He can tell his own tenets.

The Court: You do not do any preaching, do you?

The Witness: Yes, sir.

The Court: He may tell then about his own.

Q. Is that your position? A. It is.

Q. But in the history of the United States of America at no time has the Government ever required any ordained minister to take up arms?

Mr. Oeland: That I object to.

The Court: That is according to the law.

Mr. Sparks: Exception.

Q. And you consider yourself a minister of God?

971 A. I do.

Q. And duly ordained? A. Yes, sir.

Q. Is there contained in the "Watch Tower" an annual report of the work of the society? A. Yes, sir; once each year.

Q. And every year? A. Yes, sir.

Q. And does that report show the amount of money received by the society and the amount and how expended? A. Yes, sir.

The Court: Have you got a copy of that here?

Q. It is a yearly thing every year. And that has been done for how many years last past? A. It is done regularly ever since the society was organized.

972 Q. The only work that is carried on by this society is of a religious nature? A. Absolutely.

Q. And does it take any part in politics in any way? A. No, it does not.

Q. I show you a copy of the "Labor Tribune," published at Pittsburg, issued December 28th, 1916, and call your attention to the lower right-hand column and ask you whether you know and had your attention called to that paragraph?

Mr. Oeland: When?

Mr. Sparks: Any time.

A. Yes, I have read this before.

Mr. Sparks: I offer that in evidence.

Mr. Oeland: Let me see it. (After examination.) I have no objection to it.

The paper was then received and marked Defendants' Exhibit C in evidence.

(The Exhibit was then read to the jury by Mr. Sparks.)

Q. I show you the "Watch Tower" for September 1st, 1915, and ask you if this is the official publication of the society? A. Yes sir.

974

Q. And issued by the society? A. Yes, sir.

Q. I call your attention to some matter marked in lead pencil, do you recall the discussion about that matter? A. I do.

Q. It had been orally discussed? A. I heard the greater part of that article dictated.

Q. By whom? A. Pastor Russell.

Mr. Oeland: Let us see it. (After examination.) I object to that as entirely immaterial. It is some statement of Mr. Russell as to his views on certain points.

Mr. Sparks: It is the declaration of the association, of their attitude toward the war

975

Mr. Oeland: I am not questioning their attitude. I never have, granting them the best motive, they cannot break the law and induce others to break the law. I tried to make myself very plain in my opening to the jury.

The Court: I will exclude that for the present. I think this should be brought to a close here.

Mr. Sparks: May I have it marked for identification?

The Court: Yes. We will not pass on that

exhibit. I think it is a matter of defense if it is material at all.

The paper was marked Defendants' Exhibit D for identification.

Mr. Sparks: It is only in explanation of the matters they brought out by the various witnesses that they called yesterday and this morning.

The Court: If you have anything further that is cross-examination take it up.

Mr. Fuller: We feel we have a right on cross-examination of this witness to draw from the witness an explanation of the principles of the organization pursuant to which the volume, which is part of the indictment, was issued and published. That is the purpose of the introduction and offering of this exhibit and testimony.

The Court: This witness was not inquired of as to declarations. He was inquired of as to certain publications.

Mr. Oeland: I did not go into any of the publications at all.

The Court: Nor the doctrine or different belief?

Mr. Oeland: None whatever.

Mr. Sparks: We can establish by any witnesses that the Government calls our innocence if we can.

The Court: You can if it is proper cross-examination.

Mr. Fuller: Will your Honor permit an exception to the ruling on that?

The Court: Certainly. This last matter of the paper is not admissible evidence. It is not material here. It is not in the least material. The Government should have objected to it.

RE-DIRECT EXAMINATION by Mr. Oeland:

Q. Have you any list of members in your organization?

The Court: I have excluded that. He says they have not. You have already been over that.

Q. Have you any published creed? A. Yes, sir.

Q. In book form? A. In seven books.

Q. The creed that you speak of is in the whole set of books? A. Yes, sir.

980

Q. And you believe that Mr. Russell was one of the prophets? A. No, sir.

Q. Isn't that set forth in the "Finished Mystery" that he was one of the prophets? A. No, sir, not a prophet. He was the expounder of what the prophets had written.

Q. Don't you set out the seven prophets styling it as one of the seven angels of the Lord? A. One of the seven messengers.

Q. What do you mean by "messenger"? A. We understand that each stage of the Church, between the first advent of Christ and the—

981

The Court: How is this material? Even if you testify on the subject, how is it material to the case.

Mr. Oeland: I can't see it.

The Court: Then why do you cross-examine him on it?

Mr. Oeland: I just want to cross-examine on one or two questions.

The Court: That is all I shall allow. Not more than one or two.

Q. You published this as the posthumous work of Pastor Russell? A. Yes.

Q. What do you understand by "posthumous work"? A. I understand it recognizes a publication subsequent to one's death.

Q. Which have never been published before? A. Not necessarily; no, sir. Which have never been published in this form before.

Q. Oh, is that the way you consider it? A. Yes, sir.

Q. You do not find anything written that has not been published before? A. No.

983 Q. And everything is just a collation of what he has written before? A. Yes, sir.

Q. And this construction of certain language used in the Scriptures? A. Yes, sir.

Q. Now, you believe that construction is part of your doctrine? A. Yes, sir.

Q. And you consider here a quotation from Revelations in the following language: "Steps of the thousand and six and two hundred furlongs," you consider that to mean that the writer of the Revelations had in mind the distance between Scranton, Pennsylvania, and Brooklyn? A. I believe that the Lord submitted this as an indication.

984 Q. No, no; answer my question. Do you consider that passage to mean the distance that the writer of Revelations had in mind as the distance between Scranton, Pennsylvania, and Brooklyn?

Mr. Sparks: I object to the word, the witness has a right to answer that question in his own way, and he cannot answer by a yes or no answer.

Mr. Oeland: My question is: You say that is the construction and use of the language of the Bible. It is true that the language from Revelations about steps of Revelations had in his mind, and was prophesying of a thousand and two hundred furlongs, as the writer

the distance between Scranton and New York, by way of Hoboken Ferry, Barclay Street and Fulton Ferry; isn't that what you set forth as one of your doctrines in the seventh volume?

The Witness: I understand that is set forth in the volume itself.

Q. That is the construction you place upon it? A. I could not improve on the comments made there.

Q. Well, you believe that that is one of the doctrines that the writer of that quotation from Revelations, when he wrote that, he had in mind the distance from Scranton to Brooklyn by way of the Barclay Street Ferry and the Fulton Ferry to Brooklyn? A. Well, I think the Lord, who has all foreknowledge, could know that as well as something else.

986

Q. You think the writer of the Book of Revelations had that in mind in the time? A. No; but I think the Lord had it in mind as he had all things in mind.

Q. You have no authority for that except the fact that you say it is so? A. It sounds reasonable to me.

Q. That meets with your approval as a proper construction about the steps of a thousand and six and two hundred furlongs, as meaning the distance between Scranton and Brooklyn? A. I think so.

987

Q. And you believe all that as fully as you do any other exposition of the language used in the Scriptures? A. I do.

Q. And you quote here from some other part of the Bible: "The shield means the thing ahead of the Great Warrior, the headlight of the locomotive." Did you think the writer of Revelations, away back there, had in mind the light of the locomotive? A. Can I answer that in my own way?

Q. When he used the word "shield," you consider

that to be a locomotive? A. May I answer it in my own way?

The Court: This is not anything that this witness wrote, is it?

Mr. Oeland: No, sir; but it is part of their faith, that is all.

The Witness: I understand that in this particular prophecy, the prophet was pointing out the things that would be in evidence in the later days, and he said that on which would be increased many would run to and fro.

989

Q. No; let us keep on this about the shield. A. He was giving a picture of the inventions, one of which is the locomotive, for the purpose of carrying many to and fro.

Q. The Bible did not say anything about a locomotive? A. It did in this particular prophecy without mentioning it by name.

Q. It did not mention it by name, but that is the construction you put upon it? A. Yes, sir.

Q. When he spoke about seeing fir trees, you understood that to be telegraph poles? A. Yes, sir; giving a general picture of the conditions of our days.

990 Q. You put the construction on the Bible where the prophet spoke of fir tree, meaning a telegraph pole? A. In this particular instance.

Q. Well, now, you say that you prophesized that the war would come in 1914? A. I did not prophesy it.

Q. Well, your doctrines are that it was manifested? A. It was pointed out in the Scriptures that it would come in 1914.

Q. Well, what year will it end? A. I do not know.

Q. You never got to that? A. It does not state, as far as I know.

Q. What do you mean Gentile times? A. Those are the seven times of the Gentiles, or seven years of

the Gentile domination, symbolic years from the overthrow of the Israelite Kingdom, 606 B. C., to 1914.

Q. You take the words "seven years," as used in the Bible as purely symbolical and then you put a construction of what you mean; isn't that right; is that your doctrine?

The Court: I am not going to allow that.

Mr. Oeland: I think it is immaterial myself.

The Court: What has this to do with whether the defense intended to induce insubordination? That is the case we are here to try.

992

By Mr. Fuller:

Q. This excerpt on page 230 which was called to your attention by Mr. Oeland, referring to the distance between Scranton and the Bethel Home, it merely sets forth what those distances are? A. Yes.

Q. And the author of this book leaves the coincidence there without comment, does he not? A. Yes, sir.

Q. Either accepts or rejects any connection between the distances set forth in the Bible and the distances pointed out by the author; is that true? A. It is.

993

Q. And your personal view is that that coincidence was intentional when the prophet used the language referred to? A. Yes, sir; a marked coincidence, to say the least.

Q. You told Judge Oeland that you believed that just as thoroughly as you did any other part of your creed or principles of faith? A. Yes, sir.

Q. Do you mean by that that you are thoroughly of the belief that Christ was the Son of God? A. Yes, sir; but I would not say it is a parallel. One is a fundamental thing, and the other may be said to be immaterial.

Q. It would not affect your faith whether you believed in this to be true or not? A. No.

Q. But the other is fundamental to your faith? A. Yes, sir.

Q. Do you know the six defendants? A. I do.

Q. How long have you known them? A. I have known the most of them nine years.

The Court: How is that material?

Mr. Fuller: That will prove they are members of the International Bible Students' Association.

Q. State how long you have known them as consecrated members of the International Bible Students' Association? A. I have known all but Mr. Martin and Mr. DeCecca, I think, about eight or nine years, and I have known them five or six years.

Q. That is Mr. Martin and Mr. DeCecca? A. Yes, sir.

Q. And you have known all of them for a period in excess of four or five years as members of the association, who have consecrated themselves to the Lord and His service? A. Yes, sir.

Q. And they are such members today? A. Yes, sir.

The Court: Will you find out what printer printed this sheet that is printed in Italian?

The Witness: I do not know; I never saw it before.

The Court: Will you try and find out the printer who printed it and when you come back on Monday at ten o'clock, tell us?

The Witness: Yes, sir.

The Court: Is that something that was distributed by this concern?

997

Mr. Oeland: We expect to show it before we finish.

Mr. Sparks: That statement is not taken as any evidence in this case. Your Honor's statement in connection with the answer of the District Attorney. I ask the Court to instruct the jury to disregard the question of the Court and the answer made by the District Attorney.

The Court: The Court declines so to do, and is very proud of the conversation of what the true intent of the meaning was. I am not going to instruct this jury every fifteen minutes at your request. Your requests come to frequently.

998

Mr. Sparks: I take an exception.

The Court: The juryman understand some things. They do not need to have instructions here every five minutes. I was pretty generous with you at the start and your requests came to often and too quick. If you have any exceptions to take, take them.

Mr. Sparks: I want to take an exception to the District Attorney's statement that the pamphlet which is not in evidence was published by this association.

999

The Court: He didn't say that. He said he expected to show that before he concluded his case. That is what he said. Call your next witness.

EDWARD ADAMS, a witness for the Government was duly sworn and testified as follows:

Direct-examination by Mr. Oeland:

Q. What is your business? A. Printing and binding.

Q. Did you do any printing in the latter part of 1917 for the Watch Tower Bible & Tract Society?

A. Yes, sir.

Q. Did you print what is known as the Bible Students' monthly? A. Yes, sir.

1001 Q. Just tell the jury how you printed that; I mean by that, did you have reprints of certain issues? A. The Watch Tower Bible & Tract Society furnished the plates of various issues of the "Bible Students' Monthly" and we have printed the "Bible Students' Monthly" tracts as their orders have come in.

Q. In other words, you had the plates and as you got orders from them— A. (Interposed): Yes, we would print and reprint them.

Q. Did you have a reprint of Volume 8, No. 4? A. Yes, sir.

Q. Of the "Bible Students' Monthly," at any time in 1917? A. Yes, sir.

1002 Q. What date? A. October 4, 1917.

Q. That was the reprint of Volume 8, No. 4? A. Yes, sir.

Q. How did you get an order for reprinting that? A. That is the way the orders have been submitted to us for printing. The written orders.

Q. Is this the way the order would come into you? A. Yes, sir.

Q. Did you receive that order on or before October 17th? A. Yes, sir.

Mr. Oeland: I offer that in evidence.

Mr. Sparks: Let us see it. (After examination): I object on the ground that it is in no

way connected with any of the defendants in this action.

The Court: It will be admitted.

The paper was received in evidence and marked Government's Exhibit No. 23.

Mr. Sparks: Exception.

Q. Is this the matter that you reprinted? A. We have printed this number. I could not say whether this is the exact issue. It may be a copy of it.

Q. I did not ask you whether it was the issue. I asked you on that order you reprinted that issue?

A. Yes, sir.

1004

Q. The same matter as in Exhibit 14 for identification, this is the original, of which you made a reprint?

A. I want to say there is an advertisement on the back of here. That I could not say that we have done, but we have done this issue, but whether it had on this advertisement or not that is mentioning certain lectures then, but we have printed eighty-four with the exceptions of the advertisement on the back.

Q. In other words, it had some other matter in it as Exhibit 14, except for the possible advertisements on the back? A. Yes, sir.

Q. There is no change in page two or three of the reprint? A. No, sir.

1005

Q. That is the same, is it? A. Yes, sir.

Q. Now, what did you do with these ten thousand copies? A. This small issue of ten thousand copies were usually delivered to the Watch Tower Bible & Tract Society.

Mr. Sparks: I object to the answer.

The Court: It will be admitted.

Mr. Sparks: Exception.

Q. Did you print any more reprints of Volume 8-4?

A. No, sir.

1006

Edward Adams

Q. In 1917? A. No, sir.

Q. And that was done after October 4th? A. Yes, sir.

Q. Can you tell how soon after that? A. Probably within two days, two or three days.

Q. Who paid you for the reprint? A. The Watch Tower Bible & Tract Society.

Mr. Oeland: We offer this in evidence.

Mr. Sparks: We object on the ground that it is incompetent and immaterial, and has no connection with any of the defendants.

1007

The Court: What is the nature of it?

Mr. Oeland: It is a description of a soldier, and it is a pamphlet sent out.

The Court: You mean they sent this out generally?

Mr. Oeland: Yes, sir.

The Court: And you will show it was in the hands of some military person?

Mr. Oeland: Yes, we expect to prove that.

The Court: I am inclined to take it when you show that.

Mr. Oeland: It is admissible to show intent, if I am properly advised. We can show it in the hands of a military police.

1008

The Court: Then it will be better to adopt that course and by that eliminate one law question, and let us take the course suggested, if it is not inconvenient for the Government to do so. I will admit it.

The paper was then received and marked Government's Exhibit 14 in evidence.

Mr. Fuller: Does the date when this printing was done by the witness appear?

Mr. Oeland: After October 4th, two or three days, in 1917. We offer in evidence a portion

on page 2, beginning with "quite in contrast"—

Mr. Sparks: Has your Honor admitted this?

Q. Is this the one that you identified or is this the one here? A. This is the one, 8-4.

Mr. Sparks: We take an exception to the admission of that.

(The paper was then read to the jury.)

Q. Did you have a reprint of Volume 9, No. 1—these are not dated? A. Yes, sir.

Q. What date was the reprint of Volume 9, No. 1? A. Reprint of Volume 9, No. 1, as late as—

Q. Look at your order, if you have got your order there? A. I have not got them in rotation as to dates, but I can be safe in saying that we have reprinted them in February and April.

Q. I want you to find the order? A. How late would you want me to go with them?

Q. Any time from July, 1917 up to the present time or upwards to May 6th, 1918? A. July, 1917.

Q. How many volumes did you reprint them? A. 100,000.

Q. In July, 1917? A. Yes, sir.

Q. What date in July? A. July 10th.

Q. Where did you get your order from? A. I got that from the Watch Tower Bible & Tract Society.

Q. Who paid for it? A. The Watch Tower Bible & Tract Society.

Q. What was done with the hundred thousand? A. Well, I had shipping orders. I shipped them all over the country.

Q. Did you get subsequent orders; you said you got in July 100,000 of these? A. Yes, sir.

Q. And did you get subsequent orders in August, September and October? A. Yes, sir.

Q. You had how many orders—and then you take where you distributed them?

1010

1011

1012

Edward Adams

Mr. Sparks: I object to his reading out what the orders were that he got unless he puts them in evidence.

Mr. Oeland: I have no hesitancy in putting the orders in evidence.

A. I have them here in August, September, October and November but they run continuously.

Q. Give us the approximate numbers? A. Here is one for twenty.

Q. Twenty what? A. 20,000 and 66,000.

1013 Q. What dates are those? A. The 20,000 was on August 15th.

Mr. Sparks: I object to that unless the order is put in.

The Court: It is admitted. He is merely using his papers to refresh his recollection. If, on cross-examination you want them put in you may have them.

Mr. Sparks: Exception.

Q. Proceed. A. August 12th, 66,000; November 16th, 20,000, November 13th, 25,000—

Mr. Sparks: The same exception to all of this.

1014

The Court: Yes, an exception to anything you ask for.

A. (Resuming): On November 12th, 30,000; September 22nd, 22,000; September 21st, 10,000; August 11th, 20,000.

Q. That is all in 1917? A. Those are all 1917.

Q. What did you do with them when they were printed? A. We were shipping them according to shipping order, we received.

Mr. Sparks: I object unless the orders are produced.

The Court: It is admitted.

Mr. Sparks: Exception.

Q. Just give a general outline of where they were shipped to, without giving the detail. A. Yes, sir. They were shipped—I have here 371,000 shipped to Colorado, Washington, Missouri, Ohio, Washington, Missouri and Illinois. All over the United States at various cities.

Q. And this Exhibit 12 for identification, Volume 9, No. 1, is what you reprinted, is it? A. Yes, sir.

Q. And the subject matter on the front page was reprinted as appears in that volume? A. Yes, sir.

Q. And distributed as you have stated? A. Yes, sir.

1016

Mr. Oeland: We offer it in evidence.

The Court: What is the nature of it?

Mr. Oeland: It is a comment on whether or not the bonds issued by the Government will be paid and the interest on them.

The Court: I am not inclined to admit that.

Mr. Oeland: I only offer it on the question of intent as showing hostility to the Government's attitude. Your Honor might glance at it. It is very short.

Mr. Fuller: We object on the grounds that it is incompetent, irrelevant and immaterial, and not binding on any of the defendants. It does not establish or tend to establish anything.

1017

The Court: Did the defendant publish this paper?

Mr. Fuller: The Watch Tower Bible & Tract Society.

The Court: They are the officers of that company.

Mr. Fuller: I do not think there is anything in the paper.

The Court: We will leave this until Monday. Have you some other witnesses?

Mr. Sparks: I do not know sufficiently about these issues, and I will ask that the cross-examination of this witness be deferred.

The Court: Mr. Witness, report here Monday morning at ten o'clock with all of your papers.

1019 JOHN ROGERS ANDERSON, a witness called on behalf of the Government, was duly sworn, and testified as follows:

Direct-examination by Mr. Oeland:

Q. Mr. Anderson, where do you reside? A. 1827 Woodhaven Avenue, Woodhaven, New York.

Q. You are now in what camp? A. Camp Upton.

Q. When did you go down there? A. April 4th.

Q. As a drafted man? A. A drafted man.

Q. April 4th of this year? A. Yes, sir.

Q. Did you have a "Finished Mystery," and read it? A. I read it, yes, sir.

Q. Before you went? A. Yes, sir.

1020 Q. Did you have a copy of this Volume 8, No. 4 of the "Bible Students' Monthly," Exhibit 14, in evidence? A. No, I never seen that volume.

Q. Did you have one like it? A. No, sir.

Q. Did you read a copy of this? A. No.

Q. How long have you been a member of the International Bible Students' Association? A. Since 1909 in the fall.

Q. Did you join anything? A. No, I never joined by baptismal.

Q. And when you were drafted you were taken where? A. I reported to the Local Board and went down with the Local Board.

Q. How is that? A. I reported to the Local Board and went down with the Local Board.

Q. To Camp Upton? A. To Camp Upton.

Q. And how long did you stay there after you got there? A. I stayed about one month.

Q. Then what did you do? A. Well, we had a little trouble with one of the barracks where I stayed. I considered it altogether out of order and human and I left and sent the general of the camp a telegram on my leaving.

Q. You sent him a telegram after you got to Brooklyn? A. After I got to Woodhaven.

1022

Q. In other words, you left without leave? A. Yes, sir, exactly.

Q. And where did you go then? A. I went to my parents' home and my folks were not home. I went to my nearest neighbor and had some dinner.

Q. Then where did you go? A. I came back to my own house. My folks were home then.

Q. Where else did you go? A. After supper I went to the place where I had had dinner and stayed there overnight.

Q. Did you go either to the Bethel or to the tabernacle? A. No.

Q. At no time while you were here? A. At one time.

1023

Q. When was that? A. On Sunday I went to the tabernacle.

Q. Didn't you know there was an officer looking for you, then? A. No, I did not believe there was an officer according to General Bell.

Q. Who did you see at the tabernacle? A. I seen a lot of faces coming in. I walked right through and down the fire escape and knocked on the window, and there I seen Mr. Macberry—

Q. You did what? A. I went down the fire escape and knocked on the window and Mr. Macberry, who

was the night watchman there, opened the window and let me in.

Q. What time of the night was that? A. About eight o'clock. There is always a watchman there.

Q. Why did you use the fire escape?

Mr. Sparks: I object as immaterial.

The Court: It is admitted.

Q. Why did you use the fire escape? A. I saw the army officer approach me.

1025 Q. You saw an army officer when you came in there?

Mr. Sparks: I object to this line of testimony as not binding on the defendants.

The Court: We will see what happens.

Mr. Sparks: Exception.

Q. Isn't that the reason that you used the fire escape, because you saw the officer? A. Yes, sir.

Q. How long did you stay there? A. About fifteen minutes.

1026 Q. Did you talk with any of the defendants? A. I talked with Mr. Maeberry and told him that I had been reading over the President's Proclamation at camp and expected to take non-combatant service when I returned and I would not return from camp until I had heard from Gen. Bell, to whom I had written.

Q. Did you talk to any gentleman at the table here? A. No, sir.

Q. Did you see Mr. Rutherford? A. No, sir.

Q. Did you call for him? A. No, sir, I did not.

Q. Did you see Mr. Martin or Mr. DeCecca? A. No, sir, I did not.

Q. You saw no one but Mr. Maeberry? A. He was the night watchman.

Q. And you did not see any of the other defendants? A. No,

The Court: By "defendants," he means these gentlemen on trial sitting here.

The Witness: No, I did not see any.

Q. Whom did you see there? A. I went for the purpose of seeing my parents, who I expected would have word from Gen. Bell, having word to report. I sent a telegram that I would report, that is—

The Court: Wait a minute. How is this material, if it had nothing to do with any of these defendants?

Q. Were any of the defendants there that evening? A. No.

Q. Did you see Mr. Rutherford at the camp? A. No, I did not.

Q. Did you ever see him down there before May 6, 1915? A. No.

Q. You never did see him there at all? A. No.

The Court: Are you acquainted with him?

The Witness: Yes, sir.

The Court: Have any letters from him?

The Witness: No.

The Court: Have you spoken with him?

The Witness: Yes, sir.

The Court: Did you write to him?

The Witness: No.

Q. Did you write to the Watch Tower Bible & Tract Society? A. No, sir, I had no communication with them either directly or indirectly.

Q. And you did not see Mr. Rutherford at camp up to May 6th? A. No.

Q. Didn't you see Mr. Rutherford there and get some Bible texts from him? A. No, I did not.

Q. Didn't you see him at the camp there? A. No, I did not.

1030

John Rogers Anderson

Mr. Sparks: I object. That has been answered two or three times.

Q. You know Ferguson? A. I do. I have known him for four years.

The Court: Is he one of the defendants?

Mr. Oeland: No, sir. I thought that would refresh his recollection as to something that happened there.

Q. When did you first put on a uniform?

1031

Mr. Sparks: I object as not binding on the defendants and in no way connected with their actions.

Q. You read the seventh volume before you were drafted? A. I certainly did.

Q. And read pages 247 to 253? A. Yes, sir, I did.

Q. And you believed it? A. I do not believe it altogether. I think it largely depends on what patriotism means. If patriotism means to me that I have to kill somebody else, I am not patriotic, but if it means to die in the service of one's country, then I am patriotic.

Q. You are patriotic? A. Yes, sir.

1032

Q. Well, did you read the whole of volume 7? A. Yes, sir, I did.

Q. Before you went to camp? A. Yes, sir, I finished it about Christmas time.

Q. Where did you get that volume from? A. I bought it.

Q. From whom? A. I don't know who it was, whoever was in charge of the store.

Q. You went to the Bethel Home and bought it? A. At the tabernacle.

Q. They have some place there where they sell volumes? A. Certainly.

Q. How many copies did you buy? A. Two.

Q. What did you do with the other copy? A. I have it at home.

Mr. Sparks: I object to that as immaterial and not binding on the defendants, and not upon any of the other defendants.

The Court: It is admitted.

Mr. Sparks: What did you do with the other copy? Exception.

Q. What did you do with the other copy? A. I bought that also.

1034

Q. Wasn't it mailed to you after you got into camp? A. No, sir.

Q. When did you buy the first copy? A. The first copy was sent to me by mail when "The Finished Mystery" was published, that was about August of last year.

Q. Did you pay for that? A. I certainly did.

Q. Where did you get the second copy? A. I bought that at the tabernacle.

Q. When did you buy that? A. About three weeks later.

Q. And what did you do with those two copies after? A. Well, one of them is at home, because it is a large one and I cannot carry it to read in the trains, and I used to read going back and forth to work. I had a small one for that purpose.

1035

Q. You kept them both? A. Yes, sir.

Q. And you kept them at the camp? A. Yes, sir, and I have got pages 247 to 251 cut out.

CROSS-EXAMINATION by Mr. Sparks:

Q. Did your reading of the seventh volume in any way affect your conduct with reference to the draft or your duties after you were drafted? A. If the

seventh volume had never been printed I would be in the same position as I am today.

Q. If the seventh volume had never been printed, you would have acted the same as you have acted up to the present time? A. Exactly.

Q. Did you say yes in answering that question? A. Yes, sir.

Q. Is that due to your belief after reading the seventh volume? A. Yes, sir.

RE-DIRECT EXAMINATION by Mr. Oeland:

Q. Did you file a claim for exemption before the board? A. Yes, sir, I did.

Q. Did you support that by affidavits from anybody of the Watch Tower? A. Yes, sir, the secretary.

Q. Who is the secretary? A. Mr. Van Amburgh.

Q. Where did you get it? A. At the Bethel Home.

Q. What did you pay for it? A. Nothing.

Q. He gave it to you? A. Yes, sir.

RE-CROSS EXAMINATION by Mr. Sparks:

1038 Q. That was the claim for deferred classification based upon your religious belief? A. Yes, sir.

Q. Are you consecrated to the Lord? A. Exactly.

Q. When you make the consecration? A. 1914.

Q. In what class? A. Brooklyn.

Q. Are you a member of the class in Brooklyn? A. Yes, sir.

Q. And attended regularly the daily services? A. Yes, sir.

Q. And your claim for deferred classification was upon the ground that you were a member of the International Bible Association whose creed or principle was against war? A. And my personal belief also.

Q. And also your personal belief? A. Yes, sir.

By Mr. Oeland:

Q. Now, was it your personal belief or creed? A. Well, I accepted that.

Q. But you had feelings of your own in the matter? A. Yes, sir.

Q. Your soul did not want to fight? A. If you do not believe in it it is not your own.

By Mr. Sparks:

Q. What is that? A. If you do not believe a thing it is not a part of yourself.

Q. Your father is a member of the society for a great many years? A. Since 1907.

1040

By Mr. Fuller:

Q. At the time of filing that claim, prior to the time of your going to camp, and ever since, your personal beliefs have been against your participating in the war, is that so? A. Yes, sir.

By Mr. Oeland:

Q. When did you first put on a uniform?

Mr. Fuller: I object as immaterial and not binding in any way on these defendants.

The Court: It is admitted.

Mr. Fuller: Exception.

1041

The Witness: I think about Friday, two weeks ago.

Q. What work had you been doing up to that time?

A. I had not been doing anything.

Q. You refused to drill? A. Certainly.

Q. You refused even to take a stick and drill with it? A. I refused to do everything but keep my own bunk clean and put coal on the fire.

Q. And eat? A. Why, I was refused to eat at one time.

1042

Jerry de Cecca

The Court: What was that?

Mr. Oeland: He refused to eat.

The Witness: No, I said I was refused food at one time.

JERRY DECECCA, a witness called in behalf of the Government, being first duly sworn, testified as follows:

1043 *Direct-examination by Mr. Oeland:*

Q. Where do you come from? A. Camp Devins.

Q. How long have you been there? A. Since October 10, 1917.

Q. Is that the time you were drafted? A. Why, yes, sir, about that time.

Q. And you have been in other camps except Camp Devins? A. Yes, sir, that is the only camp outside of Fort Jay, New York.

Q. Are you a brother of Giovanni DeCecca? A. Yes, sir.

Q. One of the defendants here? A. Yes, sir.

1044 Q. Did you go to camp voluntarily? A. No, sir.

Q. They took you? A. Yes, sir.

Q. Then you had read the seventh volume or "The Finished Mystery"? A. No, sir—you mean at that time?

Q. Yes. A. No, I had not.

Q. Did you get some copies after you got into camp? A. Why, yes, sir.

Q. Well, how many? A. Why, one I brought with me when I went to camp.

Q. I thought you said you did not have any when you went to camp? A. I thought you said if I had not read it. Didn't you say that?

Q. Yes, you are right. When did you get the seventh volume that you took to camp with you? A. I got it the day I went. I asked for it.

Q. Whom did you ask for it? A. Mrs. Reese, I believe it was.

Q. Whereabouts did you get it? A. In Bridgeport.

Q. Bridgeport, Connecticut? A. Yes, sir. I asked for it. I wanted to bring it up with me, I wanted to read it.

Q. Did you see your brother when you were on the train? A. Yes, sir.

Q. Did he give you this letter to take with you (handing witness a letter)? A. Why, I don't know as he gave me this letter. 1046

Q. Well, did he give you one like it?

Mr. Fuller: I object to it because it calls for a conclusion.

The Court: It is admitted.

Mr. Fuller: Exception.

Q. You mean you do not think that is the exact letter he gave you, but he gave you one that had the same written matter as that in it? A. Why, yes, sir.

Q. What did you do with the one that he gave you? A. I know now this was not the letter he gave me.

Q. What did you do with the one he gave you? A. I destroyed it. 1047

Q. Well, is that a copy of the letter he gave you?

Mr. Fuller: I object to this. That is a conclusion of the witness whether this is a copy. The original is lost or destroyed—

The Court: The original is lost or destroyed and a copy may be used.

Mr. Fuller: If this is the copy?

The Court: He says it is. We will not discuss that.

Mr. Sparks: We make the same objection and the same exception.

Q. I ask you if that was a copy of the letter he gave you? A. Well, I could not say that is the copy. It is something like that. I do not know whether it is a copy or not.

The Court: Mr. Reporter, will you look back and see what the witness says about that? (The reporter read back the several previous questions and answers.)

1049 The Court: Now, read the letter and see if it is like the one you got?

The Witness: I believe the letter he gave me was like this one.

Mr. Sparks: I ask the privilege to cross examine him on that.

The Court: The privilege is denied.

Mr. Sparks: Exception.

Q. Is that a copy of the letter he gave you?

Mr. Sparks: I object to the form of the question.

1050 A. I do not know if it is a copy, but it is the same.

Q. It reads the same? A. But—there may be some words different. I could not remember all the words.

The Court: You think it reads the same, don't you?

The Witness: Yes, sir.

Mr. Oeland: I offer it in evidence.

Mr. Sparks: I object to it as not binding on the defendants.

The Court: It is admitted against the man who wrote it.

The paper was received and marked Exhibit 24, in evidence.

Mr. Sparks: I object to that as not binding on any of the defendants and take an exception.

The Court: Very well. The objection is overruled and you may have an exception.

Mr. Fuller: I object on the ground that it is not proof as to being an accurate copy.

The Court: It is admitted.

Mr. Fuller: Exception.

(The exhibit was then read to the jury.)

Q. And now, you wrote a letter to your brother Giovanni, Giovanni in Italian means George? A. John.

1052

Q. You wrote him a card on the 17th of October, 1917? A. I do not remember if I did or not.

Q. Did you write to him? A. I know I wrote to him at times.

Q. Did you get a letter back from him? A. Why, I believe I received some mail from him.

Q. Did you get this letter in the course of the mail (handing witness a letter)?

Mr. Fuller: I object to the form of the question. I think it is ambiguous. It is the same piece of paper that the witness holds. How does the witness know whether that is a paper with the same contents? There is a confusion of mind with respect to a similar question.

1053

The Court: The witness will understand that. If it so appears, I will help him out.

A. I remember receiving a letter like this.

Q. Well, didn't you receive that letter? A. I could not say if that was the letter.

Q. What did you do with the letter that you got from your brother? A. I beg your pardon?

Q. What did you do with the letter you got from

your brother? A. I had some letters and Lieut. Hall took them. I do not know whether he took them or not.

The Court: Was this letter addressed to you?

The Witness: What I say is I do not know if this is the very letter.

The Court: Look and see if this is addressed to you.

The Witness: Yes, sir; it starts here. The envelope is not here.

1055 Q. Well, the letter itself is addressed to you? A. That is my name: "Dear Jerry."

Q. Well, now, didn't you get that letter, and wasn't it taken up by Lieut. Hall? A. Well, I say I did not put any mark on the letter.

The Court: Are you giving heed to the suggestion made by counsel that you received that and you do not know the letter or one like that?

The Witness: I said I received one like it.

The Court: What is there about that that makes you think that you did not receive that?

The Witness: Nothing in particular.

1056 The Court: And you have known of getting two letters exactly alike?

The Witness: No, sir.

The Court: Why did you anticipate there was?

The Witness: I do not know. There might have been.

The Court: What makes you think that?

The Witness: I have no reason for it.

The Court: Then why do you say that?

The Witness: Because I want to tell the truth.

The Court: You have no reason whatever for expecting that there was another letter, the exact duplicate of that; that is a personal letter from your brother to you?

The Witness: Yes, sir.

The Court: And you read it all through carefully?

The Witness: Yes, sir.

The Court: Now, what reason is there for you saying that you might have had one exactly like it?

The Witness: Well, that is the most truthful way that I can answer.

Q. Well, in your opinion, isn't that the letter or a copy of it? A. The letter I had—

Q. (Interposed.) In your opinion, isn't that the letter?

1058

The Court: The witnesses give some extraordinary answers here today.

Mr. Fuller: If your Honor please, I object to that remark.

The Court: Well, enter your objection and take exception to it.

Mr. Fuller: Exception.

The Court: This is very extraordinary, in view of the objections you make, and this witness listens to what you say and almost adopts the very words and the theory that you adopt.

Mr. Fuller: I cannot help that.

The Court: The witness can help it, and the Court can. 1059

Mr. Fuller: I cannot say—

The Witness: I cannot see that I can answer different.

The Court: What is that?

The Witness: I do not see how I can answer different than what I said. I received a letter that was like it and this may be it.

The Court: Don't you think that is it?

The Witness: I have an idea that it is.

1060

Jerry de Cecca

Mr. Oeland: I offer it in evidence.

Mr. Sparks: We object to it as to all of the defendants.

The Court: We will not admit it except as to the one at present. It is admitted against the writer.

Mr. Fuller: As far as the defendant De-Cecca is concerned, I object. It has not been proven that he wrote the letter.

The Court: It is overruled as to him.

Mr. Fuller: I take an exception.

1061

The letter was then received in evidence and marked Government's Exhibit No. 25, and was read to the jury.

(At 5:10 P. M. the Court adjourned to Monday, June 10th, 1918, at 10 A. M.)

June 10th, 1918; 10 A. M.

The Court met pursuant to adjournment.

Present: The Court, counsel and jury as before.

1062

JERRY DECECCA, recalled and further testified as follows:

The Court: As to the ruling that the Court made in permitting the letter which we will call the DeCecca letter in order that I might have an opportunity to examine the case in 218 New York, I have examined that case with care. It does not lay down any new law. It follows the elementary and well-founded rule that in order to permit a letter or similar document to be introduced, there must be some evidence tending to show the genuineness of the

letter. That has always been the law in that case. That case merely adopts the law that has been in force for years, and so in the case of 218, there is no authority for the question presented in the trial of this case. Here the letter written was one in answer to a letter the witness had written, sent by mail. His testimony shows the letter admitted was the answer that came to him by mail. In fact, it was in answer to a letter the witness had written and it came through the regular course of the mail. There is some evidence tending to show it is a genuine letter. For that reason the letter may stand, subject to all the objections made by the defendants, and the exception of each of the defendants. The doctrine announced in the case of 218 is a good doctrine and correct law, but not applicable to this question here. Now, you may proceed.

1064

DIRECT-EXAMINATION resumed by Mr. Oeland:

Q. Did you write this letter to your brother? A. Yes, I wrote it. 1065

Mr. Oeland: I offer that in evidence.

Received in evidence and marked Exhibit No. 26-a.

Q. Did you get this letter in reply to that letter, Exhibit 26-a? Did you get the letter I hand you in reply to Exhibit 26-a?

Mr. Sparks: I object to the introduction of this letter against all the defendants, except DeCecca, on the ground there is no connection

1066

between them and this letter, it is not binding on them, and there is no conspiracy shown to date.

Mr. Fuller: I object as to the defendant DeCecca on the ground this letter was improperly taken from DeCecca, a demand was properly made before the Commissioner, a demand for its return, and the demand was improperly denied by the Commissioner and an exception was taken.

The Court: We cannot hear exceptions here to the rulings of Commissioners.

1067

Mr. Fuller: That presents rather an awkward question.

The Court: You can make your objection and take an exception for those reasons.

Mr. Fuller: The idea might be if I found the records before the Commissioner were admissible in evidence, I might subsequently make a motion to strike it out.

The Court: All right. Is this one of the letters involved in the motion pending before me?

Mr. Fuller: No.

1068

The Court: As to that motion, I think I will consider that. I think that motion should be denied and have that considered to date last Tuesday. The trial began last Wednesday. I intimate that so that counsel can act accordingly. I am inclined to deny that motion. I think the proper course for the Court to take is to overrule your objections and you take an exception.

Mr. Fuller: On behalf of all the defendants?

The Court: Yes.

Q. Did you receive the Exhibit 26-b you just had in your hand, in answer to Exhibit 26-a, to the letter you wrote?

Mr. Fuller: I object to the form of the question.

The Court: The form is all right.

Mr. Fuller: Exception.

A. I believe I received that letter.

The Court: In answer to the one you wrote your brother, was the question.

The Witness: Yes.

1070

Q. Did you, at the same time, receive in the mail, receive an issue of the "Watch Tower" of March 1st, 1918, which I hand you? A. I remember reading this letter in the "Watch Tower."

Q. Now, refreshing your recollection by the letter, Exhibit 26-b, the third paragraph, look at that paragraph in your letter and see if that don't refresh your recollection that you did receive it? A. I remember reading this letter in the "Watch Tower."

Q. No; my question is, refresh your recollection by that paragraph of the letter which you say you received in answer to your letter?

1071

The Court: Call his attention to what is in the letter.

Q. Refreshing your recollection by this: "Now, Jerry, will you keep us informed?" beginning with those words.

Mr. Fuller: Is the letter from which Mr. Oeland is reading in evidence?

Mr. Oeland: It is marked in evidence, not read.

The Court: No.

1072

Jerry de Cecca

Mr. Sparks: Have you offered this letter in evidence?

Mr. Oeland: Yes.

Mr. Sparks: There is a stamp, October 24, 1917, J. DeC. There is a stamp on this letter, not handwriting, but stamped October 24, 1917, J. DeC. We object to that unless it is part of the original letter.

The Court: It is something the defendants put on?

Mr. Sparks: We don't know that.

1073 The Court: It came from their possession?

Mr. Sparks: It has been in the possession of the Government.

Mr. Oeland: I will explain that.

Q. Does that refresh your recollection?

Mr. Sparks: Do we get a ruling on that?

Mr. Oeland: I will come to it in a moment.

Mr. Fuller: Before Mr. Oeland reads from this letter, I don't understand the second letter was offered in evidence.

The Court: Not yet.

Mr. Fuller: Mr. Oeland said it was offered in evidence and not read.

1074 Mr. Oeland: I got a number for it, so I can identify it. If it is not identified it will be stricken out. It is marked 26-b in evidence. It is easy to strike it out. I am only trying to keep the record straight.

Q. Does this refresh your recollection: "I am enclosing a copy of the 'Watch Tower' of March 1st, and in it you will find Brother Regimo Cuminetti's letter of his trial before the military tribunal. I think you can learn something from reading it." Don't that refresh your recollection that you got that copy

at that time? A. No; I don't remember if I received a copy or not.

The Court: You remember, you say, reading the letter in the "Watch Tower"?

The Witness: Yes.

The Court: Were you situated so that you could get the "Watch Tower" in any way except through this brother of yours sending it to you, as he says in his letter?

The Witness: I cannot recollect receiving the "Watch Tower." I have a faint recollection of receiving it, not when I received it.

1076

Q. You say you have a recollection of receiving it?
A. A faint one.

Q. Did you receive it in the camp after you were over there? Did you receive it in Camp Devins? A. If I received it at all, I received it in the camp.

Q. Didn't you just say you did receive it? You had a recollection of receiving a copy of the "Watch Tower"? A. I can't say I received it, because I don't remember receiving it, but remember reading the letter.

Q. Which letter? A. This letter here.

Q. The letter appears in the "Watch Tower," the letter he refers to here as Regimo Cuminetti's letter? A. I remember reading that letter, but I don't know whether I read it in the camp or before going to camp, because where I used to live the "Watch Tower" used to come.

1077

Q. Does this refresh your recollection at all: "I am enclosing a copy of the 'Watch Tower' of March 1st, 1917, and in it you will find Brother Regimo Cuminetti's letter of his trial before the military tribunal. I think you can find something from reading it"? He said he enclosed it in this letter. You received this letter? A. Yes.

1078

Jerry de Cecca

Q. Did you, at the same time, receive enclosed a copy of the "Watch Tower" containing Regimo Cumlinetti's letter? A. I can't say that I did.

Q. Can you say that you did not?

Mr. Sparks: I object.

The Court: Admitted.

Mr. Sparks: Exception.

A. No, I cannot say that I did not.

The Court: What is your best recollection?

1079

The Witness: My best recollection is that I read this letter at some time.

The Court: No; what is your best recollection whether a copy of the "Watch Tower," as he said—if it had not been enclosed, you would be likely to notice it?

The Witness: I don't remember receiving it.

The Court: I did not ask you definitely; what is your best recollection about it?

The Witness: My best recollection is, I did not receive it.

1080

The Court: What is your recollection then as to whether you obtained a copy of the "Watch Tower" which enabled you to read this letter referred to, printed in the "Watch Tower"?

The Witness: Where I used to live before I went to camp, we used to receive the "Watch Tower" regularly; I used to read them.

The Court: When did you go to camp?

The Witness: October 10th.

The Court: What is the date of the "Watch Tower"?

Mr. Oeland: March 1, 1917. The purpose is to show circulation after June 15, 1917.

Q. Did you take any of the "Watch Tower" copies

to Camp Devins with you when you were there? A. I don't remember that I did.

Q. Didn't you see a copy and have it in your possession there in the camp after you went to camp?

A. I don't remember.

Q. This statement: "I am enclosing a copy of the 'Watch Tower' of March 1st, and in it you will find Brother Regimo Cuminetti's letter of his trial before the military tribunal. I think you will learn something from reading it." You say that don't refresh your recollection? A. When I received it that time?

Q. Yes. A. No, sir.

1082

Q. What was in the envelope with this letter? A. I don't remember; I don't remember what sort of a letter it was.

The Court: How was the letter folded, long way?

Mr. Oeland: Folded long way and apparently that way, too.

Q. That does not refresh your recollection at all? A. No, sir; it does not.

Q. Your best recollection is you did not receive a copy? A. That is my best opinion.

Q. What is that based upon? What recollection have you in your head there upon which you base your recollection you did not receive it? A. I don't remember having it around me at all.

1083

Marked Exhibit 26-b.

Mr. Oeland: Attention has been called to October 24, 1917, J. DeC. The writing at the top of the letter.

Q. That is not your writing, is it, down to there, the head part of it there? A. That is not my writing.

Q. Whose is it? A. I don't know, for sure, whose it is.

Q. What is your best information as to whose it is?

Mr. Fuller: I object; not a proper form of question.

The Court: I guess, he being the claimant, he will not be allowed to testify as to whose handwriting, unless he has seen the person write.

1085 Q. Do you know your brother's handwriting? A. No, sir.

Q. Have you seen him write? A. Usually, whatever letter I receive is typewritten.

The Court: Haven't you ever seen your brother write?

The Witness: I believe I seen some; I do say it is not his.

Q. Is it your sister-in-law's handwriting? A. Maybe.

The Court: Did you ever see her actually write?

The Witness: No, sir.

1086 Q. You received many letters from her? A. I received one, two or three.

Q. Isn't it your best recollection the—

The Court: I am not inclined to allow that. Not having seen her write, and having received only two or three letters, he is not qualified to speak on that subject.

Q. That wasn't on there when you received the letter? A. No, sir.

Mr. Oeland: We did not offer that part.

Mr. Fuller: That is the first five lines of the exhibit, prior to "Monday"?

Q. Was that stamped on there when you mailed it, "October 24, 1917, J. DeC."? A. No, sir.

Mr. Oeland: All of it prior to the word "Monday."

Mr. Fuller: Including the stamp?

Mr. Oeland: Yea. We offer in evidence 26-b.

Q. I show you a letter dated June 14, 1917, and ask you who signed that letter?

1088

Mr. Fuller: May I cross-examine the witness for a moment?

The Court: You may ask him any question in cross-examination in respect to the issuance of the letter.

Mr. Fuller: I have found something that corrects my opinion. I wish to object on behalf of all of the defendants except DeCecca, on the ground the letter is not binding on them, therefore it is incompetent, irrelevant and immaterial as to those defendants.

The Court: I will admit it against the defendant who wrote it, for the present.

1089

Mr. Sparks: I also object on the ground that the person writing it, under the Selective Service Law, had a perfect right to write it. It is written from one blood relative to another, and in answer to an inquiry as to certain rights had under the Selective Service Law.

Mr. Fuller: Exception. Did I understand this is in for the time being, admitted as to the other defendants or not, for the time being, admitted to the other defendants?

The Court: Not for the time being.

1090

Jerry de Cecco

(Mr. Buchner reads Government Exhibit No. 26-a to the jury. Mr. Buchner reads Government Exhibit No. 26-b to the jury.)

Mr. Sparks: I ask the Court to instruct the jury at this time the statement in this letter: "I write these few lines," reading the letter, down to the words: "and anyone who thinks different," I ask the Court to instruct the jury they are not to regard that as evidence that Mr. Rutherford made that statement.

1091

The Court: That is so, the way the evidence stands now, the same as we had the other day, because that is a letter written by another person. He would not have the power to make a statement in a letter which would be legal evidence against another person. That is the way the evidence stands now. This letter that the defendant wrote is merely evidence against him, the way the case stands now. You see how dangerous it would be if one of us could write a letter to our friends and relatives and make it evidence against one of you gentlemen. That is the reason of the rule. You will note the Court says that is the way the evidence stands now. It may take a different turn in respect to these different letters, exhibits, if introduced, and it may be introduced against the others later in the trial, and if they are, the Court will make it clear to you.

1092

Q. I hand you two sheets of paper and ask you if, around November 16, 1917, you received that letter by mail from your brother?

Mr. Fuller: I haven't seen the letter yet, but I think "from your brother" is not proper at this time.

The Court: I think it is very proper; that merely identifies the letter.

The Court: Do you have to read it all in order to tell whether you received it?

The Witness: I believe I am convinced I did receive it.

Mr. Oeland: We offer it in evidence.

Mr. Fuller: I don't want to take time to read this.

The Court: You may let counsel read them, and then take such exceptions and objections after they are read, and they will be treated—

1094

Mr. Oeland: Those were in the indictment.

The Court: Of course, it is quite a delay. The witness reads the letter, counsel reads the letter, perhaps the Court reads it. It duplicates work. It might be just as well to let it be read aloud, and take exception, and treat them the same as if they were made before the letter was read.

Mr. Fuller: I want to except to the acceptance against any defendant except DeCecca, on the ground that it is not binding on any of the other defendants.

1095

The Court: That depends upon whether there is any evidence in the case before the Government rests, tending to show conspiracy. If there is evidence tending to show conspiracy, it is admissible against all conspirators; therefore, I believe I should admit it for the present as against the author.

Mr. Fuller: Only.

The Court: Only.

Mr. Fuller: I want to object to this, to its use against DeCecca only, on the ground it ap-

1096

pears to be a letter written by some mechanical process, I have forgotten the term; these letters they used to gelatine, there is no proper testimony or evidence, a typewritten letter, that it was written or forwarded by the defendant.

The Court: He says he received it from his brother.

Mr. Fuller: I object. The mere inference is drawn, except the name is signed in this mechanical form by the name which belongs to his brother.

The Court: I think that is a question of fact.

1097

Mr. Fuller: I don't realize that it was in the indictment.

The Court: I think it is a question the way the evidence stands, it is a question for the jury to say whether he did, in fact, write it.

Mr. Sparks: Is that the way it was received, signed mechanically, not in his own handwriting?

Mr. Fuller: Yes.

Mr. Sparks: That is not a copy.

1098

The Court: I don't think it makes any difference how the letter is signed, whether it is signed with a pen, pencil, typewriter, rubber stamp, or whether it is not signed at all. It is the expression of the author. It is just as binding, just as admissible.

Mr. Sparks: He wouldn't know whether it was from the person he says if it was not signed by him. If it is not signed at all, it might be the work of some person, and if signed mechanically, he might be some other person who wished to do him harm. That is the purpose of proving the person who had written it.

Mr. Fuller: We object on the ground the letter is written from one blood relative to another and properly so, under the Selective Service Act, and giving advice to him, which advice he had a right to give.

Received in evidence and marked Exhibit No. 27.

The Court: You may see the letter. You know your brother's handwriting, do you not?

The Witness: I believe if I saw it, I might say whether I knew it or not.

1100

The Court: Here are two or three words.

Mr. Oeland: I think that was put on.

The Court: That may be in his handwriting. You had better ask about that. Did you answer that letter you received from your brother?

The Witness: I cannot say that I did, your Honor.

The Court: Have you any recollection about it; that is a long letter, a very long letter you received from him. It is singular you haven't any recollection.

The Witness: It is a long time ago.

Q. Look at this and see if this is not a reply that you wrote in response to this letter? A. I did write this letter. 1101

Q. Wasn't it in response to this letter you received from your brother? Wasn't the letter you hold in your hand written in response to the letter of November 14, 1917? A. It is written after that. I couldn't say if it is in response.

Q. Didn't you give him some information he referred to or wanted in his letter? Didn't he want to know the names of the officers you claimed had been mistreating you? A. I did write him.

1102

Jerry de Cecca

Q. Didn't you do it in response to this letter of November 14th?

The Court: Read that part of the letter. We are receiving many answers here to the effect that the witness does not remember.

The Court: Mr. Witness, it is just as necessary for you to answer correctly and the answer that you don't remember is just as wrong as any other answer you could possibly give, if you do remember.

1103

The Witness: This don't seem to be any response to that letter.

Q. And didn't he say: "If they mistreat you in such cruel manner, I would make an affidavit," and reading down to "and send an affidavit to the society." In place of sending an affidavit didn't you send him a letter and give him a name? A. Yes.

Q. Beginning: "I understand Brother Nicita," and reading down to "in which we were abiding," in answer to that inquiry as to who was mistreating you, didn't you write him that letter? A. No, sir.

1104

Q. What was the occasion of writing that? A. Because Brother Nicita was in the guard house, we felt it was then unjust and that if we were to let Major Pardee know the situation, he would see that things would be straightened out.

Q. Didn't you write that information to your brother in response to the letter of November 14, 1917? A. Is that that letter there?

Q. Yes. A. No, sir.

Q. And you say you did not answer this letter? A. I don't remember answering that letter.

The Court: Ask him if that letter you hold in your hand is an answer the witness previously wrote to his brother.

Q. Does this refresh your recollection: "Your letter of the 10th of November, written together with Brother C. Nicita was received"? Who is C. N.?
A. Carmelo Nicita.

Q. "Glad to hear from you, glad to know you are well," and ending with "to carry." Did you write him a letter of November 10th?

The Court: As he says in his letter.

A. If he received a letter that time, I should say yes.

The Court: Without regard to what he says, don't you remember writing him a letter, as he says in the answer?

1105

Q. Your letter written with C. N.?

The Court: Did you and C. N. write him?

The Witness: Carmelo Nicita wrote letters. I would say if you write him give my love, that would be my letter.

The Court: He refers to it as your letter.

Q. "Your letter of November 10th with C. N.," didn't you have a habit of writing and all signing? A. No; Brother Nicita would write the letter and I would tell him.

1107

Q. Didn't you all frequently write a letter and sign it? Didn't you, two or three, write a letter and sign it and send it out? A. Yes.

Q. Who did you write to then? A. Brother Rutherford.

Q. Don't this refresh your recollection that either you or Nicita had written him a letter on November 10th, to which this was a reply? A. I don't ever remember replying to that letter.

The Court: Does that statement in your brother's letter refresh your recollection?

The Witness: I would say I never answered that letter.

Q. The Court asked if the letter where he says: "Your letter of November 10th, written together with C. N. was received," does that refresh your recollection that you or Nicita wrote him a letter and this was a reply to it? A. No, sir.

The Court: Did you have a letter in your possession for some considerable time?

The Witness: I believe I did.

1109 The Court: Who took it away from you; how did you lose possession of it?

The Witness: I don't know for sure, but it was possibly Lieut. Hall.

The Court: How do you say possibly? Don't you know you parted possession with that letter?

The Witness: I can honestly say I do not.

Mr. Sparks: May I suggest the Court ask him the circumstances, how it was taken away or how he came to miss it?

1110 The Witness: I had letters. I never paid much attention to my letters. When Lieut. Hall came to take possession of my letters I don't know what I had. I gave him all I had. I don't know that there was anything in there that anybody would be ashamed to show. I don't know what Lieut. Hall took.

The Court: That is a long letter. The way he starts out, you reflect on that a little and see if you haven't any recollection of writing a letter in connection with Carmelo Nicita.

Q. Brother Nicita?

The Court: This Brother Nicita, to your brother, when that letter came, have you any recollection whether you showed it to Brother Carmelo Nicita

and you read it together? There are a good many circumstances in this letter that ought to be useful in refreshing recollection. You just think that over and see if you can answer counsel. This is what transaction? It is quite a long story in the letter. There is quite a lot of detail to it. Brother Nicita—the fact that Brother Nicita had to do with writing to your brother with yourself, and the letter comes back to both of you, seems to me, Mr. Witness, ought to be quite helpful to anyone in refreshing their recollection, and the answer that the witness does not remember is, as I stated before, just as wrong as to say no when it should be yes. If the answers come to that effect too often, I don't remember, when apparently the witness ought to remember, or does remember, or couldn't help but remember, why, the Court will not allow such answers to be made. We had quite an experience to that effect last week when a couple of young ladies who were stenographers were on the stand. I want you to fully understand the situation. This will not be allowed to go on here indefinitely this way, unless there is reasonable doubt that the answer, "I don't remember," is a true answer, a just answer, a fair answer.

1112

Mr. Sparks: I take an exception to the Court's remarks as tending to be prejudicial to the defendants.

1113

The Court: The exception will be noted. You should not construe what the Court said gentlemen of the jury, as prejudicial to anyone. It is manifest to the Court, it seems to be very plain to the Court, that the Court has a duty to perform in the trial of this case with respect to compelling witnesses to testify. Quite often some witnesses have the notion that if they don't remember or can't remember, they

1114

have the notion, I say, that that is an answer, that that relieves them of the situation, of all responsibility. That is always a mistaken notion. It is just as wrong for a witness to say in court he does not remember when he does remember, or say his recollection is not refreshed when it is refreshed, as it would be to testify to anything else not true. I think the Court should explain fully to these witnesses; give them ample time. This action of the Court should not reflect against the defendants or the Government. This is one of the situations met in the trial of cases quite often. Of

1115

course, if a witness persistently says he don't remember, when it is apparent to everyone that he does remember, the answer is not a true answer, we can stop the progress of any trial, and hamper the Court so that we could not accomplish anything, and prevent the trial. It is a great injustice to the Government or the defendant. Now, because the Court, therefore, was going to act as it thinks its duty requires, that should not prejudice anyone. Let us meet the situation as we find it. Nothing appears in this trial, so far, that the defendants or the defendants' counsel are responsible for the attitude taken by this witness or the two young lady stenographers on the stand last Friday. The Court would not be justified in drawing such an inference.

1116

Mr. Sparks: Like the last remarks of your Honor, I will have to take an exception to the remarks that preceded that.

The Court: The exceptions of the defendants should stand, and may apply to all that the Court has said, and each part thereof. If there is anything further that counsel for the

defendant suggests that the Court should say to the jury in order to prevent any inference being drawn against the defendants, the Court will be very glad to do so, but I think that it would be mockery for the Court to sit here and not do what it has done, and do what it intimates it will do if the witness continues to give those answers, if the Court is thoroughly satisfied that they are evasive. We can tell the witnesses to testify to what they know, to testify truly, and not to be evasive.

Mr. Sparks: If your Honor is finished, I may take another exception to your Honor's statement. 1118

Q. Look at the words in pencil there; do you recognize that as your brother's writing? A. No, sir; I do not recognize that as my brother's writing.

The Court: Would it help you to compare these words written in the typewritten letter to the letter written by your brother by pen, that you hold in your hand?

Mr. Oeland: That was written by the witness to his brother.

The Court: I withdraw the question; strike out the question. 1119

Q. You say you have no recollection whether that was taken out of your possession by Lieut. Hall? A. I don't know whether he took it or not.

Q. Was it in your possession about the time Lieut. Hall got some papers from you? A. I believe it was.

Q. Hadn't you shown it to other people around there? A. I don't remember showing it to anybody.

Q. How long had you had it? A. I couldn't answer, I don't know, because I don't know how long I had it.

1120

Jerry de Cecco

Q. Don't you remember receiving that in the mail?

A. I believe I testified I did receive that letter.

Q. By mail? A. Yes.

Q. How many letters did you write to your brother?

A. I don't know.

Q. While you were in camp in October?

The Court: Did you write him often?

The Witness: No, sir; I didn't write him often.

1121

Q. You didn't write him over three letters, did you, in October or November, either one? A. What is the question?

Q. You didn't write him over three or four letters in October or November, 1917? A. I am instructed not to answer.

Q. What is that? A. You asked if I wrote more than three or four letters; I don't know, sir.

Q. That is what I wanted to know. A. I was instructed not to answer.

Q. Who instructed you not to answer? A. That is what I understood.

The Court: You misunderstood if you refer to what the Court said. You are confusing me, at least, as to who instructed you not to answer my question.

1122

The Witness: I believe, your Honor, that is what I understood.

Q. In reading this letter over, and reading that letter, which you say you wrote your brother, don't that refresh your recollection that you did receive this letter in response to a letter written by you on November 10, 1917, in which Carmelo Nicita joined with you, that you kept this letter and had it in your possession until it was taken off you by some of the military authorities at Camp Devins? A. I believe

I wrote a letter before that, but that was in answer to the letter I wrote.

Q. This was in answer to your letter? A. Yes.

The Court: That letter to your brother went by mail? This letter from your brother was received by mail?

Mr. Oeland: I submit, if your Honor please, the letter can be read?

The Court: Yes, subject to the exceptions made by the defendant in his exceptions.

Mr. Fuller: I want to object, and move to strike out the last answer of the witness on the ground from an examination it is apparent, it seems to be apparent now that he is drawing a surmise, and is not testifying from a refreshed recollection, but is somewhat fearful of the difference between a surmise and a refreshed recollection. 1124

The Court: I will deny that motion, subject to your exception.

Mr. Fuller: If your Honor please, I want in all good faith to suggest that the point of the exceptions to your Honor's remarks upon my objection is the fear that a feeling will arise in the mind of the witness in consequence of which he will not testify with that same degree of freedom for fear he will not be understood. That is what I am fearful of. Recalling each specific occurrence somewhat vaguely and shady in the mind, the witness might pass from "I don't remember" to the point "I guess so; I do remember," in consequence of a feeling that your Honor or the jury or someone else might assume from his failing to recall—might assume his failing to recall might be deliberate. I don't know if it 1125

is especially important, but I feel from the answer he gave—

The Court: In view of what you say, I will put on the record that the Court purposely spoke very mildly, very considerately, and explained to the witness in detail the situation, and I hardly think, from the attitude of the Court, it would tend in the least to terrify or alarm anyone. I attempted to, and I believe I did, make it very plain that the answer "I don't remember," in cases where it is apparent to everyone the witness does remember, or the witness couldn't fail but remember, or the witness couldn't help to remember, is just as wrong as any other mistake, as I referred to it being characteristic of human nature, quite a number of persons come to court and think if they say: "I don't remember," that relieves them of responsibility to a complete answer of what is asked. It is just as wrong for the perjurer to answer "I don't remember," when in fact the witness does remember, as to make any other answer.

The Court: Mr. Witness, the Court did not wish you to understand or believe that the answer "I don't remember," when in fact you do not remember, is anything except such an answer that you should make, but in these cases where there is much detail, a long letter written in answer to a letter written by you and somebody else, that involves so many circumstances that you could not fail but remember, or have your recollection refreshed by reading the letter, I want you to give great attention and care to the questions refreshing your recollection. The thing I want to impress on you is that the thing that you remember you must tell; if you do not remember, you must tell that.

Mr. Sparks: We object to the statement.

The Court: Yes, exception. Note it again to all the Court has said.

(The letter was read to the jury.)

(A recess was then taken for five minutes.)

(After recess.)

Q. Didn't you sign a circular letter in Italian, sign your signature, or did someone sign it at your request? A. That is my signature. 1130

Q. Do you know of a circular letter being written in Italian to your brother?

The Court: Let him read the letter.

Mr. Oeland: I don't know whether he can read Italian.

The Court: Ask him.

Q. Can you read Italian? A. Not read a letter; no, sir.

Q. Look at this and see if you can translate enough to know if that letter was written with your consent or approval? A. I understand a few words, but cannot get the meaning of the letter. 1131

Q. Do you recall whether or not the letter was written in Italian between you and Nicita? A. I haven't any idea what is in this letter.

Q. I ask you if a letter was written in Italian to your brother by Nicita, that you know of, not that particular letter, wherein he ordered volumes of "The Finished Mystery," thirty volumes of "The Finished Mystery"? A. Yes.

Q. What do you remember about that? A. I remember where he sent for thirty volumes of "The Finished Mystery."

Q. Do you know when the letter was sent? A. I know it was a little before Christmas.

Q. Was such a letter sent with your approval? A. Yes, sir.

Q. For thirty volumes of "The Finished Mystery"? A. Yes.

Q. Did you get the thirty volumes? A. Yes.

Q. In response to the letter? A. I know we got the thirty volumes.

Q. What time did you get those? A. That was also a little before Christmas.

1133

Q. What did you do with the thirty volumes?

Mr. Sparks: I object. His action in no way binds the defendant.

The Court: The evidence tends to show the defendant published about a hundred thousand volumes of this book called "The Finished Mystery," and the only inference to be drawn from that is that they were printed for sale. I am inclined to think whatever use was made of them by the purchasers is material.

Mr. Sparks: I say may be—

1134

The Court: I say may be material. Change that "is material" to "may be material." I will rule this question in, subject to the connection.

Mr. Sparks: Exception.

A. Only five of them were mine, and I sent them away.

Q. Where did you send them? A. I had received some letters from some people, I don't know who they were. They wrote, about four or five people wrote me letters. They were sympathizing with conscientious objectors. They had gotten my name somehow. I received letters that way. Four of these books I sent to these people; they sent me fruit and

candy at Christmas time, and in return I sent them the seventh volume.

Q. What did you do with the other volumes; you say you got five or six? A. Five.

Q. You kept one and sent four away as presents? A. Yes.

Q. Where did you keep the fifth one, in camp? A. Yes.

Q. You say you and several others wrote a circular letter to Mr. Rutherford. Did you get a reply to that? A. Yes.

Q. When was it you wrote? A. I don't know 1136
when I wrote it. I didn't write the letter.

Q. You joined in the letter? A. Yes, we agreed amongst ourselves, the Bible Students, to write a letter.

Q. You were in the camp at the time? A. Yes.

Q. You addressed the letter to Mr. Rutherford? A. I can't say; I did not see the address.

Q. Did you get this letter in reply?

Mr. Sparks: I object as calling for a conclusion, because the witness has already said he didn't see the letter signed.

The Court: He says they joined in writing a letter to the defendant Rutherford. 1137

Mr. Sparks: He didn't say it was sent.

The Court: That necessarily means it was sent, necessarily, it might be subject to that construction.

The Witness: We—

The Court: The letter you joined in with the others, or directed to write Mr. Rutherford, was sent out, wasn't it?

The Witness: I should say yes.

Mr. Fuller: I object on the ground the testimony is hearsay. If he didn't see the letter

sent out. They agreed to write a letter, it was written. I think the witness is proceeding on something he was told. I think the details of how it was sent out are hearsay. I object to it on that ground.

Mr. Sparks: Exception.

Q. Did you get that? A. Yes,

The Court: Do you know who wrote the letter, posted the letter?

1139 The Witness: I know who wrote the letter, I suppose—

The Court: Not what you suppose, do you know who posted it?

The Witness: No.

The Court: What he said about supposing it was sent out may be stricken out. As far as he knows, he knows the letter was composed, written out, the purpose was to send it to Mr. Rutherford. That is as far as he can go and have no knowledge. I think you are right about it being hearsay.

Q. Who wrote the letter? A. Herman Abrahams.

1140

Mr. Fuller: The other letter.

Mr. Sparks: Your ruling was on the one sent out, or the one he has in his hands?

The Court: The one sent out.

Q. Was it after that you received that letter? A. Yes.

Q. You received that letter by mail? A. Yes.

Q. You sent the other letter, or authorized someone to send it for you? A. I signed the other letter.

Q. Yourself? A. We all signed our name.

Q. It was prepared for mailing? A. Yes.

Q. You signed your individual name to it? A. Yes.

Q. It was after that you received the individual letter you have in your hand? A. Yes.

Q. You received it through the mails? A. Yes.

Q. The letter you have in your hand you received through the mails, is that right? A. Yes.

Mr. Oeland: We offer the letter in evidence.

The Court: Is this one they got a copy of?

Mr. Buchner: This is one of the exhibits on the indictment, yes, sir.

Received in evidence and marked Government's Exhibit No. 28.

1142

Mr. Fuller: I want to make arrangements whereby we can get copies of these exhibits. The other night I found I was considerably confused in my records in comparing the letters.

The Court: Counsel for the Government will undoubtedly turn the exhibits over to the defendant.

Mr. Sparks: The clerk will turn them over.

The Court: The counsel will.

Mr. Buchner: We do not keep the exhibits, the clerk keeps them.

The Court: We won't proceed in this case on that theory. In this trial we won't take the exhibits away from the counsel. Counsel may have the exhibits. You are quite willing, counsel for the defendant should have them part of the time?

1143

Mr. Oeland: Yes.

The Court: That is the way we practise law at home. I think it is a good way unless there is some particular objection. You won't have any trouble getting exhibits here. In this case, Mr. Clerk, if you have any general order here.

1144

Jerry de Cecos

we won't apply it to this case. I won't hold the clerk responsible. Counsel will be responsible.

(Government Exhibit 28 read to the jury.)

Mr. Oeland: I would modify your Honor's suggestion of a moment ago, that the Court allow the clerk to take a receipt from counsel of the number of the exhibit.

Mr. Fuller is that satisfactory?

Mr. Sparks: I think the clerk could have copies made. We will pay for anything we ask done.

1145

The Court: You prefer to have copies?

Mr. Fuller: Yes.

The Court: Have you some one who could make them?

Mr. Fuller: Yes, we will send to the clerk's office. I presume we can make copies.

The Court: How is that, Mr. Clerk? We are getting to the clerk's office.

The Clerk: They are at liberty to copy any exhibits they want to during the time the office is open.

1146

Q. When you get a letter, you usually pass it around among the other men like Nicita and Abrahams and D'Onofrio? A. D'Onofrio was not with us.

Q. Well, the others, Nicita and Abrahams, didn't you pass whatever letters you got either from Jerry or Rutherford?

Mr. Sparks: I object. It is immaterial what they did with their private letters, not binding on any of these defendants.

The Court: How would that be? I write a personal letter to a person—

Mr. Oeland: I withdraw the question.

No cross-examination.

CARMELO NICITA, being called as a witness on behalf of the Government and duly sworn, testified as follows:

Direct-examination by Mr. Oeland:

Q. When did you go to camp? A. October 7, 1917.

Q. You put on a uniform, didn't you? A. Yes.

Q. When? A. About October 13th, I think.

Q. How long did you keep it on? A. About two weeks and a half.

Q. Did you receive a copy of a letter from De Cecca that was written by Frank D'Onofrio? A. Yes, sir, 1148
I received it.

Q. Is this a copy of the letter you received? It may not be an exact copy you received, but is it the same letter, Exhibit 24. Is that the letter you received? A. I cannot say that is exactly the letter. I did not put a special mark on it. I remember I received a letter the same like.

Q. What did you do with the letter you got? A. I don't know what happened with the letter. I kept it a long time, but don't remember what I did with the letter. I don't know if the Government took it away, or lost it.

Q. Didn't the Government take some letters from you, the officers? A. Yes. 1149

Q. That one they took? A. I don't know, I cannot say that. I no have a special mark on it.

Q. Did they take a letter, of which that is a copy, a letter with the words in it that that letter has in it?

The Court: The letter reads the same as that.

A. I no cannot say that reads the same because I got it about nine months. I no cannot remember all the words.

1150

Carmelo Nicita

The Court: What do you think about it, what is your best recollection?

The Witness: I remember it reads the same. I remember the one I read was short, this is longer.

Q. Did the letter you got purport to have been received from D'Onofrio? The copy of the letter you got, did that purport to be a letter from D'Onofrio?

A. Yes.

Q. How did you get it, whom did you write to for it? How did you get it? A. I don't remember how I got that letter in my hands.

1151

Q. Don't you remember writing a letter to the Watch Tower Bible & Tract Society and getting it back then? A. I don't remember writing.

Q. Didn't you write to the Watch Tower Bible & Tract Society and ask them to give you the names of any other conscientious objectors in other camps? A. I don't remember for sure I wrote or not. I don't remember sure.

The Court: He didn't ask you to remember sure. What is your best recollection about it?

The Witness: My best recollection, I cannot say I wrote or not.

1152

The Court: Counsel is not asking you sure, not asking you for sure. Your best recollection. How do you remember it?

The Witness: I no can say anything about it, I don't remember.

The Court: That it not what the Court is going to let you do. You say now you don't care to say anything about it. Did I understand you right?

(The Stenographer repeats the last answer.)

Mr. Oeland: I think he meant he couldn't say.

Q. Don't you remember writing a letter to the Watch Tower Bible & Tract Society and ask them to give you the names of any other conscientious objectors, or members of the association in the camps, that you wanted to get in touch with them? Don't that refresh your recollection? A. No, nothing at all.

Q. Did you write a letter to the Watch Tower Bible & Tract Society? A. When write?

Q. Did you write a letter to the Watch Tower Bible & Tract Society? A. What do you mean by that? I write a letter to the Watch Tower Bible & Tract Society three years ago, right along.

1154

Q. Did you write a letter when you went to camp? A. Sure I wrote.

Q. Just as soon as you got to camp? A. Yes, I wrote just as soon, yes. I wrote four days after, a week after, I don't remember sure.

Q. It was right after you wrote to them you got a copy of this letter? A. I remember the letters I receive. I don't remember receiving that copy two weeks after, or a week after.

Q. Was it two weeks after? A. I don't remember that.

Q. How did you receive a copy of the D'Onofrio letter? You say you received a letter that purported to be a copy of the D'Onofrio letter? A. In the envelope.

1155

Q. What was on the envelope? A. It was another letter. I don't know whether there was another letter, or the copy only.

Q. Wasn't it an envelope stamped with the Watch Tower Bible & Tract Society? A. I no remember that.

Q. You say you remember the envelope? A. I remember the envelope, not put special attention on the envelope. One thing I know I receive letters I

open. I read it, that is all I know. I don't pay special attention on the envelope.

Q. Hadn't you written to the "Watch Tower," and didn't you get an envelope stamped with the sign of the Watch Tower Bible & Tract Society? A. How many times I answer that question? I tell you no pay special attention.

Q. Was it at the time you received Exhibit 24? Was it at the time, about a week, or two weeks, after you had written them a letter, which you say is similar to Exhibit 24? A. The 24th of October.

1157 Q. No, that is a letter in evidence. I will give you— A. Yes, I received a letter.

Q. Was it about a week or ten days after you had written a letter to the Watch Tower Bible & Tract Society? A. I no catch that question.

Q. How long after you got to camp was it you got a letter purporting to be the D'Onofrio letter? A. I told you before I don't remember if I received one week or two weeks after.

Q. Didn't you pull off your uniform after you got that letter? A. I had the uniform before that letter.

1158 Q. How long after you were in camp did you pull off the uniform?

Mr. Sparks: I object, not binding on the defendant, his action.

The Court: It may or may not be. They wrote the letter telling him to pull off his uniform.

Mr. Sparks: This letter does not purport to do anything of the kind. This is the D'Onofrio letter, so-called, read to the jury, there is no suggestion in the letter at all that he should take any action like that. And whatever action he may have taken, as the result of this

particular letter, would be only against the writer, D'Onofrio, who is not a defendant. 1159

The Court: If the defendant sent out a copy of his letter that would be adopting it.

Mr. Sparks: The only person who sent it out, if anybody, is DeCecca, it wouldn't be admissible against anybody else. It couldn't be admissible against anybody but DeCecca, and the action, if the person took any, could not be admissible against anybody but DeCecca.

The Court: That might be so.

Mr. Fuller: It seems to me this proof of his taking off his uniform, while it may be connected up, it is not at this time, and it should not be used in the guise of an attempt to take his uniform off. It is not binding on these defendants. He said he put on a uniform Friday and took it off after two weeks later. Instances that happened might have a bearing on why he did not put it on again, but they could not have a bearing on why he took it off. 1160

The Court: That wouldn't harm the defendant. The jury won't consider that evidence against them unless it is made to appear the letter was the moving cause of his pulling off his uniform. I hardly think that would harm the defendant. 1161

Mr. Sparks: The suggestion is contained in the question itself that that was the moving motive of taking off his uniform, because he did it after the receipt of the letter, and this witness is so uncertain as to the time, that I think that the implication from the answer yes would not be correctly stated in view of what he said.

The Court: Notwithstanding what the witness may say that he did not take off his uni-

form by reason of the letter, or that he did, it is a question of fact for the jury to say what was the reason of taking off the uniform. You may take the answer subject to the objection and exceptions of the defendants.

A. I took the uniform off after October 29th, after I was segregated in the second separate company. The C. O. Company.

Q. Can you fix the date you got that letter, the supposedly D'Onofrio letter. Can you fix the date you got it? A. No, sir.

1163 Q. Did you see any difference in this letter and the one you got? A. I can't remember. It is eight months now. Looks to me that letter is more longer. I remember the copy I read was a few words.

Q. Did Jerry DeCecca show you the letter I hand you, which is Exhibit 25, dated October, 1917? Did you see that letter? Did Jerry DeCecca show you that letter?

The Court: Have you many more witnesses on the part of the Government?

Mr. Oeland: About three more.

1164 The Court: Are there any witnesses who have received letters and so forth, about the same as the others?

Mr. Oeland: One additional witness to identify letters.

The Court: Has the counsel for the Government conferred with these witnesses before putting them on the stand?

Mr. Buchner: Most of them testified before the Grand Jury.

Mr. Oeland: We did not confer with the lady witnesses.

A. I don't remember if Jerry DeCecca showed me that letter.

Q. Didn't you frequently pass letters around? Didn't you frequently, when you received letters, pass them around? A. No, sir, my letters came in Italian. I couldn't show them. The other people only read English.

Q. You frequently signed joint letters and sent them out? A. What is the question?

Q. Didn't you frequently sign joint letters and send them out? Two or three of you signed a letter and mailed it? A. It. When write letters to the class, but when we receive personally no show it.

Q. Did you write this letter and several of you sign it? Didn't you write it? Or who wrote it, Mr. Witness? You can tell whether you wrote the letter without reading every word of it? A. Yes, I wrote that letter. 1166

Q. Didn't you send it to the Watch Tower Bible & Tract Society? A. Yes.

Q. You ordered thirty copies of "The Finished Mystery"? A. Yes.

Q. And you paid for them, didn't you? A. Yes.

Q. How much did you pay for them? A. Half the price for a book.

Q. That isn't telling us how much you paid for the thirty volumes? A. Explain it. I don't know what you mean, how much you paid. 1167

Q. You know what a dollar is, don't you? How many dollars did you pay for them? A. How many dollars, sixty cents each, got to figure it out, I don't know. I had some money in the "Watch Tower," they took the money from my money.

Q. Didn't you pay nine dollars for the thirty volumes? A. I don't know, I no figure out the price.

Q. You paid for them? A. Yes, maybe, if the books cost that price, they take it.

Q. Are you uncertain about paying for them? A. I no ask them.

1168

Carmelo Nicita

Q. What did you do with the books when you got them? You know that? A. Yes, we got four brothers in the camp that time. Divide all the books altogether and send them to our friends.

Q. What date did you get the books? A. I don't know what date, a few days before Christmas.

Q. Christmas of what year? A. 1917.

Q. In December, 1917? A. Yes.

Q. You took how many of them? A. I took five copies of them.

1169 Q. What did you do with them? A. Sent them to friends out in the city.

Q. You gave the other four of your friends five each? A. Took more, some took more.

Q. Who were your friends? A. The friends in the city.

Q. The friends in the city? A. Brothers, conscientious objectors.

Q. Tell us the names, let us get something? A. Oh, the name you want. You got to ask the question right, please. I don't understand what you mean. You got to ask the names of the friends.

Q. Can you suggest any other form of question I can ask to get the thing out of you?

1170

Mr. Sparks: I don't think Judge Oeland ought to ask that.

A. Hans Ensberg had some copies, Jerry DeCecca, Herman Abraham had some, I had the rest.

Q. Is this one of the volumes you had? A. Yes.

CROSS-EXAMINATION by Mr. Fuller:

Q. These books which you got and distributed to these four men, including yourself, the four men to whom you distributed them were all members of the association? A. Yes.

Q. The books you sent, you sent to people outside the camp? A. Yea.

RE-DIRECT EXAMINATION by Mr. Oeland:

Q. What did you do with the volume you identified as your book? A. Got my name.

Q. What did you do with it? A. What do with that book?

Q. Did you put in your hands or your trunk, or the library, what did you do with it? A. I put it in the Y. M. C. A. library.

Q. In Camp Devens? A. Yes.

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FRANK D'ONOFRIO, being called as a witness on behalf of the Government, and duly sworn, testified as follows:

Direct-examination by Mr. Oeland:

Q. I hand you some papers and ask you if you wrote that, if so, when? Don't you know your own handwriting? A. Yes.

Q. You did write it? A. Yes.

Q. Is it in Italian? A. Yes.

Q. You wrote it to the Watch Tower Bible & Tract Society? A. Yes.

Q. What did you do with it, did you mail it? A. Mailed it, yes, sir.

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Mr. Oeland: I offer this in evidence.

Mr. Sparks: Nothing this witness could write could be binding on the defendant.

Mr. Oeland: That is the original of the English copy that was sent, and given to Jerry DeCecca when he got on the train. This is the Italian. That was the English copy.

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Page 393 in the original transcript is blank.

1180

*Clarence L. Converse**RE-DIRECT EXAMINATION by Mr. Oeland:*

Q. Was what you read in the "Watch Tower" a translation in English of this pamphlet? A. Yes.

CLARENCE L. CONVERSE, being duly called as a witness on behalf of the Government and duly sworn, testified as follows:

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Direct-examination by Mr. Oeland:

Q. What is your business at the present time? A. Inspector of Ordinance, assigned to the Military Intelligence Bureau.

Q. What was your business in the early part of 1918? A. The same.

Q. In that capacity did you, acting under a search warrant, make a search for papers at the Bethel Home at the Tabernacle, or either one of them? A. Yes, both of them.

Q. What time was that? A. February 27th, at 17 Hicks Street, the Tabernacle.

1182.

Q. I hand you a pamphlet in Italian, and ask you if you received copies of that at the time, and, if so, where, and how many? A. This is one of the copies taken from the desk of Giovanni DeCecca, at 17 Hicks Street, February 27th.

Mr. Oeland: The witness is now referring to Exhibit 30 in evidence.

Q. How many copies were there? A. Altogether I saw about half a dozen myself.

Q. I hand you Exhibit 24, and ask you if you saw that before, and if so, where? A. Yes, on February 27th, it was taken up from the desk of Giovanni DeCecca by Mr. McKenna, Inspector, and handed to Mr.

Trevor, who brought it over and showed it to me, and then went back and spoke to DeCecca about it.

Q. Was the conversation in your presence? A. Yes.

Q. What did he say?

Mr. Sparks: I object as to all the other defendants, and ask that the Court limit it as to DeCecca?

The Court: Yes.

Mr. Oeland: So the jury may follow that is the copy of the D'Onofrio letter.

1184

A. Mr. Trevor asked DeCecca if he sent out copies of this letter, he said yes, he did. He asked where he had sent them to, he said some to Italy and some to persons in this country.

Q. Do you recall anything else that occurred in the conversation? A. Just prior to that I had a conversation with Mr. Martin.

Q. What did he say?

The Court: That is the defendant Martin, Robert J. Martin?

The Witness: Robert J. Martin, yes.

Mr. Fuller: I object to this on behalf of all the other defendants.

1185

The Court: We will take it against Mr. Martin, for the present.

Q. How many of these did you say DeCecca said he mailed? A. A lot of these, some in the United States and some to Italy.

Mr. Sparks: Said he mailed some in this country and some to Italy.

Mr. Oeland: That is the correction.

Q. How many of these copies did you get? A. Four. One we got with the blueprint, and got four

that looked like carbon copies, with the exception they did not bear the last line on that letter. The copies did not.

Q. Is this one of the copies you saw there? A. Yes, it is.

Mr. Oeland: I don't think I will burden the record by putting that in. It is a copy, except for the last line.

1187 Q. What did Mr. Martin say? A. It was in connection with this letter, this original letter to DeCecca from D'Onofrio. He said—we asked him who was in charge of that, if he was in charge there. He said, yes, he was not responsible for what came in the place, only responsible for what went out of the place.

Mr. Fuller: I move to strike out the witness's statement that this was in connection with the D'Onofrio letter. Apparently he is placing his recollection from the trial, not from the statement at that time.

The Court: You may take that up on cross-examination.

1188 Mr. Sparks: I think he was right when he made that statement, that he wasn't responsible for what came in the place.

Mr. Fuller: My point is the witness says the conversation was in relation to the D'Onofrio letter. He doesn't say Mr. Martin said anything about D'Onofrio, or purported to be speaking of it. It further does not appear from the record—

The Court: You may make it appear.

Mr. Fuller: I am fearful I might forget it.

The Court: I guess you will remember that.

Q. I hand you exhibit 21a and Exhibit 21b for identification, and ask you where you first saw that?

A. The first place I saw that was on the desk of Mr. F. H. Robison, at 122 Columbia Heights, on March 1st, 1918.

Q. Did you take a certain file of letters from him at that time? A. Yes.

Q. That is one of them? A. That is one of the letters taken, in fact, two, two letters.

Q. That is one of the letters. Were they attached together when you got them? A. Yes.

Mr. Oeland: We offer these in evidence.

Mr. Buchner: Those are the ones we gave them copies of.

Mr. Oeland: Those are the letters we examined one of the ladies about.

The Court: One of the initialed letters?

Mr. Oeland: Yes.

Mr. Sparks: May I ask one or two questions?

CROSS-EXAMINATION by Mr. Sparks:

Q. You say this was on Mr. Robison's desk? A. Yes.

Q. Are you sure that didn't come from the file Mr. VanAmburgh gave you? A. I am positive of that, yes, sir.

Q. Are you testifying from memory or from any mark? A. Testifying from memory.

Q. You are testifying from independent recollection? A. Yes.

Mr. Sparks: We object, on the ground that it is an inquiry by a man within the Selective Service Law writing about his classification and receiving instructions in reference thereto, to which, under the Selective Service Act every citizen is required to furnish according to his

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Clarence L. Converse

ability, and consequently no overt act or criminal act can be predicated.

Mr. Fuller: We object further on the ground that it is not binding against the defendants.

The Court: I hear no objection that the letter is not genuine. I am inclined to admit it against the author.

Mr. Sparks: Exception.

Mr. Oeland: Would it save time to have all these identified or read them now?

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The Court: I should read them. I think we can all get a better understanding if you read them as they go in one at a time.

(Mr. Oeland reads Exhibit 21a to the jury.)

Q. I hand you Exhibit 20a and Exhibit 20b for identification. Where did you first see that? A. On the desk of Mr. F. H. Robison, at 122 Columbia Heights, March 1st.

Q. 1918? A. 1918.

Mr. Oeland: I offer that.

Mr. Sparks: The same objection.

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The Court: How is anything in the last letter done to create insubordination and refusal of duty?

Mr. Oeland: The purpose is twofold. To show they were in touch with the various objectors writing them, in touch with the situation and particularly for advising him to take no service. That is the particular part.

The Court: Does it say that?

Mr. Sparks: No military service.

Mr. Buchner: To decline noncombatant service, the letter was against it.

Mr. Oeland: Our position is that that is

obstructing a man who might want to go in the noncombatant service.

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Mr. Sparks: The law says no person can be inducted into the military service who is of a certain class. It doesn't say noncombatant service or purely military service. The law itself is very clear.

Mr. Oeland: The position of the Government, no matter what the law says, is that he has to decide for himself.

Mr. Sparks: If the law says John Brown shall not be inducted in the service, and John Brown writes to me, "What are my rights?" I write back, "You are specifically exempted from this act, and any person who undertakes to make you do something in pursuance to that act is himself the lawbreaker. You have the right to decline." It seems elementary if the law excludes an individual, or a class of individuals, the person who is guilty of a crime under that law is the person who undertakes to make him do something under that law, and if a person under that law comes to me, I am not speaking as his attorney—under the act itself and the rules and regulations of the President, every citizen is required to give every information and advice in reference to what his duties are under the act. That does not limit the right of a citizen to say "Go into the army," but it is equally as important to say and to advise him under the President's regulations and authority, "You should decline to do anything under this law until the question is decided as to whether you are the John Brown or the Bill Smith covered or exempted by this act." That seems academic, or a fundamental principle of law.

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Mr. Oeland: He is not asking for advice what to do, neither is he giving him advice what to do. He says, "When you go to camp don't do anything." I say that must be left to the individual after he is sent to camp.

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Mr. Sparks: If he is improperly in camp by reason of the fact that he was taken there unlawfully, you cannot cause insubordination in a person not subject to law, any more than you could if a man fifty years of age had been taken there by an officer. He says, "I am not in the draft age, I am fifty years of age." They said, "Well, we need the men anyway, we will take you." They get him in camp. An officer directs him to put on the uniform. He writes: "I am fifty years of age, not within the Selective Service. What are my rights?" It is perfectly proper to inform that man he is not compelled to perform any service whatever, it made no difference who the order came from, whether it was captains, lieutenants or anybody else. He is right in sticking by his legal exemptions until the Congress passed on that right, and he could very properly sue out a writ of habeas corpus, and have the Courts rule on that section 4: "And nothing in this Act contained shall be construed to require or compel any person to serve in any of the forces herein provided for who is found to be a member of any well recognized religious sect or organization at present organized." So it covers all services, noncombatant service, until the President makes certain rules and regulations in reference to that matter.

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Mr. Fuller: There is an additional phrase there, "But no person so exempted shall be exempted from service in any capacity that the

President shall declare to be noncombatant." Dealing with the problem arising under this were conscientious objectors. The officials tried to get the matter straightened out in the absence of any ruling. In some cases men have quietly entered into it, or there was trouble. It was an attempt to deal with a problem made by Congressional action, and not completed by the Presidential act. During the period of the passage of this act, and the time the President acted, some of these conscientious objectors have written letters to the Watch Tower Bible & Tract Society, and there has been suggestion in the letter just read that particular force of noncombatant service that is designated by an officer in the camp is not noncombatant service as construed by the statute, to which noncombatant service was to be confined.

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Mr. Oeland: I think Mr. Fuller has intensified the question. If a man goes in service, and a friend advises him, "I can get you out of the service," yet if a man is willing to do something to put his shoulder to the wheel, no man has a right to go there and make him do differently.

The Court: If let alone, he might not change his mind. You contend, even if he is a conscientious objector no one has the right to stimulate his belief, to urge him to stand firm and not yield, that the Government has a right to have him let alone.

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Mr. Oeland: It might not appeal to me as a conscientious objector. They might want to go in there, as many have, to get into the Red Cross, to be an aid to humanity. No man has a right to go in there and tell him not to do what his conscience says he should do.

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Mr. Sparks: That is an unfair argument. If a person went to camp and a person was doing work, noncombatant service, and you said you should not do that, that might be germane. But there is a conscientious objector, insisting on his rights, that is different. He is asking for advice from the person whom the rules prescribe shall give it to him. If a man writes a letter to a man asking his rights, that argument of Judge Oeland would not stand. I would agree with him if a man wanted to—went to camp, and tried to stir up a conscientious objector, that might be well taken, and to show we are right in our position, Rule 13, in reference to conscientious objectors says: "And whose then existing creed or principles forbid its members to participate in war in any form, and whose religious convictions are against war or participation therein, in accordance with the creed or principles of said religious organization, shall be furnished by such local board with a certificate, form 1008, to that effect, and to the further effect that, by the terms of Section 3 of the Selective Service, he can only be required to serve in a capacity declared by the President to be non-combatant."

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And up to the time the President declared it to be non-combatant, it was unlawful for any person to tell him to serve in any forces. Then the rule goes on: "He shall be classified, however, as is any other registrant; but he shall be designated upon all classifications, forms, records, certificates, and other writings of local and district boards in which his name appears by the insertion of a cypher after his name. So the law on rules and regulations clearly recognize that the only thing you can do

with a conscientious objector is to classify him, and it is not possible under the rules and regulations and the law to do anything but have the local board classify him and give him a certificate to that effect, until after the President makes rules and regulations as to this specific class of persons. The President not having made his rules and regulations up to March, 1918, every man in camp contrary to his objection was in camp illegally. If you have a man in camp or in prison and he asks advice as to how to get out or what are his rights, to say that you are violating the law if you give it to him, is unjust.

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Mr. Fuller: There seems to be in respect to conscientious objectors a notion of doubt for fear of being killed in the attitude of the conscientious objector. There is no justice in that. Probably the reason in the delay of the assignment of the conscientious objector is due to the fact that all the branches where they could be utilized had not been made. His mental attitude is that he does not want to kill anybody else, not that he does not want somebody to kill him, not to put him in line of duty to kill somebody else. I presume it is not helpful to any progressive army to take men in the rank who are conscientious objectors. There are lots of places where conscientious objectors could be put, where they are as likely to be killed as in the front trenches. It cannot be held on the ground that he is afraid somebody would kill him. We are not paying attention to the scruples of a man against being killed. In the early stages I believe that was a confusion of mind in respect to this question. These problems came up where officials were desirous

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Edward Adams

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of getting everybody, and with the highest motives, for the preparation of an army abroad, and the question was coming up whether or not this class of men should do this class of work or not. Here we have a letter by a conscientious objector asking for advice. The gist of the advice is we cannot tell you yet, because such a thing as a conscientious objector in a non-combatant military service is not possible to exist, because the section states, until the action of the President has been taken. Not coming into being under the section, under those circumstances, we do not see how these phrases can be used against anybody, particularly when it is the duty of every citizen to advise him.

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After recess.

Mr. Oeland: If the Court please, I had on the witness stand Friday Mr. Adams, when they requested to adjourn his cross-examination. He is a man of business and I would like to withdraw Mr. Converse and finish with Mr. Adams.

1212

EDWARD ADAMS, being recalled as a witness in behalf of the Government, for further cross-examination, testified:

By Mr. Sparks:

Q. Mr. Adams, you say that Government's Exhibit 14 was printed by you in October, 1917? A. Yes, sir.

Q. Did you print that at all, as matter of fact (showing witness paper)? A. Yes, sir.

Q. Turn over on the back of it. A. I have not printed one with this page 4 on.

Q. That particular "Bible Students' Monthly," you never printed at all? A. No, sir.

Q. The one that you printed is a different issue from this one entirely? A. It is, with the same heading, and page 1.

Q. I want to know if that particular paper was ever printed by you? A. Not this particular paper with the advertisement on the back.

Q. So there is no particular "Bible Students' Monthly" that has been shown you that you printed in October, 1917? A. Not this exact copy that we printed. 1214

Q. And the only "Bible Students' Monthly" that you published in 1917 called Volume VIII, No. 1, was an order that you got on October 7 or 17, 1917, for 10,000 copies? A. Yes, sir.

CROSS-EXAMINATION by Mr. Fuller:

Q. That is the issue in which you printed 10,000 in that form of some reprint which contains this Jack London letter? A. I have never read these things.

Q. Read it now (handing witness paper). A. I say I never have read it previous. 1215

Q. Read it now. That is the exhibit that you identified the other day, Exhibit 14, as being an issue of the "Bible Students' Monthly" of which you published a reprint in October, 1917; is that right? A. Yes, sir.

Q. The reprint that you published in 1917 was so far as you can recall, the same as this, with the exception of some matter in this—this advertisement on this page? A. Yes, sir.

Q. This Exhibit 14 which is now shown you contains the Jack London letter, does it not? A. Yes, sir.

Q. Which was read to the jury the other day? A. Yes, sir.

Q. And of the reprint you never published but 10,000 during the year 1917? A. Yes, sir.

By Mr. Sparks:

Q. Didn't you get a receipt for this printing and delivering in October, 1917? A. We had printed and delivered.

Q. A receipt for the delivery of whatever you printed and delivered in October, 1917? A. Yes, sir.

1217 Q. Will you produce that receipt? A. I have not got it. We have closed up the place ever since the "Watch Tower" stopped publishing the "Bible Students' Monthly," and everything has gone astray. I have not kept any records.

Q. Your receipts have all gone astray? A. Yes, sir.

Q. Is it an actual fact that the exact number of the "Bible Students' Monthly," of Volume VIII, No. 4, was under 10,000, was it not? A. 10,000 is what we have printed.

1218 Q. You did not deliver but a number of the 10,000—it was not exactly 10,000, was it? A. We couldn't say. I never have counted any of the issue delivered to "The Watch Tower." We used to weigh it. We used to deliver by weight.

Q. You delivered them in nine bundles on that particular occasion? A. Ten bundles. Always gave full weight.

Q. As matter of fact, did not you only deliver nine bundles on that occasion? A. No, sir.

Q. Is there any way that you can locate your receipts so we can have them exactly? A. Could not do it.

Q. Have you no independent recollection yourself as to the exact number? You will not swear that

there was not only nine bundles, will you? A. I will not swear there were nine.

Q. You personally did not make the delivery? A. No, sir.

Q. It was done in the usual course of your business? A. Yes, sir.

Q. So you have no personal knowledge as to this? A. No, sir.

By Mr. Fuller:

Q. You don't know how many bundles you delivered from your own knowledge, is that it? A. The way we used to run the business, we never delivered at one time. The Watch Tower had the privilege as per contract to take copies as they wanted them. They might have delivered ten bundles on one occasion, and they might have only delivered two or three at a time.

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Q. Two or three bundles? A. Two or three bundles, a thousand to a bundle.

Q. Have you any way of telling now whether the entire shipment to The Watch Tower consisted of nine bundles or ten bundles? A. I should say ten, because we have not any left on hand, and we always have printed the full count, whether ten at once or at three or four different times, I couldn't say, but it was ten.

1221

Q. Have you got a receipt for the payment? A. I have not, sir. All I have is the order to be printed.

Q. All you have, as to the number of bundles that you sent, is the assumption that you make, that you made a separate bundle for each thousand? A. Yes, sir.

Q. And you are assuming that you made ten bundles because there were 10,000, is that right? A. Yes, sir.

Q. But you have no recollection of it? A. I have not.

1222

Edward Adams

Q. You have no record of it? A. I have no record at present.

Q. Either here or available anywhere? A. No-where.

By Mr. Sparks:

Q. Do you recall when you printed the first—

Mr. Oeland: I submit, if your Honor please, some procedure ought to be followed in a cross-examination, and not this procedure of see-sawing back and forth.

1223

The Court: We won't be very formal about it. We will allow it.

By Mr. Sparks:

Q. Can you tell when you printed the first volume VIII, No. 4? A. We only printed one volume of this number since I have been in existence.

Q. When did you first print that? A. In October, could not say, about two or three days after we received an order.

Q. Did you only print one issue of Volume VIII, No. 4, and that was in October? A. Yes, sir.

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Q. You printed none from the original plates? A. No, sir.

Q. So to get it correctly, there were only 10,000 of this printed by you altogether? A. Yes, sir.

By Mr. Fuller:

Q. I would like to ask just another question. You stated the other day that you received an order from this printing from some one in The Watch Tower?

Q. Did you only print one issue at a time, or did your press carry more than one issue? A. It carried different issues.

Q. Did not you endeavor so far as you could, in

making the reprints of the various issues to run a full press? A. We did.

Q. And when you were called upon by anybody in The Watch Tower to print any issue, did not you sometimes suggest the printing of some other issue in order to fill up the press and have a full job done at one time? A. No, sir, the only way—

Q. Didn't you ever make the suggestion to them that you could fill up that press by printing some of a given issue? A. Unless I had been short of any sets of plates.

Q. At those times you have done that, haven't you? 1226
A. Yes, sir.

Q. For the purpose of facilitating this printing, saving labor? A. Yes, sir.

Q. Can you state whether or not, that is whether you have any recollection either way as to whether the printing of these 10,000 of this particular issue came as the result of such a suggestion from you or not? A. No, sir.

Q. You cannot state? A. No, sir, it has not come in this case.

Q. You are sure of that? A. I am sure of that. Every change that has been made has been a change on the order likewise. 1227

Q. I don't mean a change of the plate, but I mean as to whether or not the fact that the running off of 10,000 of this issue came as the result of a suggestion from you that that would fill up the press. A. No, sir, I could not suggest any such thing. The only time I was able to suggest a thing of that kind would be if they could not find an issue to put in the places, fill up the press—I would say to the men put in 53 to make a full order. I would suggest that. I have not in this case.

Q. Can you recall now whether you did or not do that last October? A. No, sir, not last October.

1228

Clarence L. Converse

Q. Can you recall whether you did or did not? A. I can recall that I did not.

CLARENCE L. CONVERSE, recalled on behalf of the Government, testified:

By Mr. Oeland:

1229 Q. Mr. Converse, you had in your hands before we adjourned, Exhibit 20A and 20B for identification. Where did you get those exhibits from? A. From the desk of Mr. Robison, at 122 Columbia Heights.

Q. Were they fastened together when you received them? A. They were, yes, sir.

Mr. Oeland: We offer Exhibits 20A and 20B in evidence.

Mr. Sparks: We urge the same objection to these as we have to the trial offer of a like nature.

The Court: Same ruling.

Exhibits referred to admitted in evidence under same markings.

1230 The Court: No objection is made to the exhibit, as I understand it, on the ground of its genuineness, but as I say, it is the same objection that the defendant made to the other letter, 21A and 21B, and the objections are overruled, and each defendant has an exception.

(Read.)

By Mr. Oeland:

Q. I hand you Exhibit 19 for identification and ask you where you first saw that? A. On the desk of Mr. F. H. Robison, on March 1st, at 122 Columbia Heights, Brooklyn.

Mr. Oeland: I offer it in evidence.

Same objection. Same ruling.

Exception to each defendant.

Papers referred to received in evidence under same markings.

(Read.)

Q. I hand you Exhibit 18 for identification. Where did you first see that? A. On the desk of Mr. F. H. Robison, at 122 Columbia Heights, on March 1st.

Mr. Oeland: I offer it in evidence.

Mr. Fuller: I urge its utter immateriality to any of the issues being tried. 1232

Mr. Fuller: What is this about?

Mr. Buchner: This asks how they may become members of the association.

The Court: How is that material?

Mr. Buchner: Our theory of it is it is material on the question of whether they were letting anybody at all say they were members and then going out and giving them this advice as members and attempt to confirm their stand that they were exempt.

The Court: The evidence now tends to show that any one could become one of these believers if they had recorded their name without having the action of anybody, if he made up his mind in that belief he became one of them. 1233

Mr. Buchner: Here is a letter to a man in Wisconsin telling him—they got it in November and did not answer it until January—

Mr. Fuller: If the prosecution wants that letter in we will withdraw our objection to it.

The Court: Then it will be admitted.

Received in evidence under same marking.

(Read.)

By Mr. Oeland:

Q. I hand you Exhibits 17A and 17B for identification. Where did you see those first? A. On the desk of Mr. F. H. Robison, 122 Columbia Heights, on March 1, 1918.

Mr. Sparks: We can't see the materiality of these letters, but if they are insisted upon—

The Court: How do you claim they are material, Mr. Oeland.

1235

Mr. Oeland: We say it shows an intent, part of a conspiracy, in the first place. In certain of the letters we show an advice to do nothing, one letter that your Honor must remember where we show that the man was requested to do something, and they said we advise you to do nothing. However, I will withdraw these for the present, 17A and 17B.

Q. I hand you 16A and 16B for identification. Where did you get those? A. 122 Columbia Heights, on March 1, 1918.

Q. Were they with other correspondence? A. Yes, sir.

1236

Q. Where did you get them? A. In with the other correspondence that was handed to Inspector McKenna and myself by Mr. Van Amburgh.

Q. By Mr. Van Amburgh? A. Yes, sir.

Mr. Oeland: I offer these in evidence.

Mr. Sparks: The same objection as to the first and second of the same class.

The Court: They may be omitted subject to the objection.

Mr. Oeland: These are two of the letters that the first witness, Campbell, identified by a "V," and "Mar" with a star. This witness

says he got it from Mr. Van Amburgh, so we think it is admissible.

The Court: As I understand it, they don't challenge the genuineness of any of these letters now.

Mr. Sparks: I may say we never have.

Mr. Fuller: We never have challenged that. The main point in the objection the other day was that this witness take the stand in his proper order.

The Court: Perhaps I should not say they were challenged in the past, because that is an inaccurate statement, because there was no challenge by the defendants, so I will correct myself in that regard, gentlemen. They may be admitted subject to the objections made to the other exhibits and the same exceptions to the defendants.

1238

Admitted and read, same marking.

The Witness: I would like to say in connection with the last exhibit that was secured from Mr. Van Amburgh, 17 Hicks Street, and not at 122 Columbia Heights. That was secured on February 27, at another branch of the organization.

Q. Where did you get the ones that you have in your hand? A. At 17 Hicks Street, from Mr. Van Amburgh on February 27, 1918.

1239

Mr. Oeland: These are Exhibits 15A and 15B—

By Mr. Fuller:

Q. This letter was one of a letter in the military file? A. Yes, sir.

Q. Mr. Van Amburgh handed you the entire file? A. Yes, sir.

Q. That applies to both this letter and the last exhibit? A. Yes, sir.

1240

Clarence L. Converse

Q. You found these in the file? A. Yes, sir.

The Court: It will be admitted subject to the same objections and exceptions to the defendants.

Mr. Sparks: We make the additional objection in reference to this letter of September 27, 1917, as one of the exhibits offered that certain things were suggested or had been suggested by Brother Rutherford, the statement there contained as to what he intended to do or was doing.

1241

The Court: The Court will admit it against the man who wrote it, Van Amburgh. The jury will understand that the same rule will be applied and not any reference he may have made to Mr. Rutherford in another letter with it.

Received under same marking and read to the jury.

The Court: In view of the objection made the Court is inclined to admit that letter against the defendant Rutherford as well as against the defendant Van Amburgh. I think there is evidence in the case now tending to show a conspiracy between these two defendants.

1242

Mr. Sparks: In this letter?

The Court: Not this letter, all the evidence in the case tends to show that, I think, so it may be taken against these two now.

Mr. Sparks: Exception.

The Court: Yes, both defendants, namely, the defendants, Rutherford and Van Amburgh except to this ruling of the Court. This is based upon the theory that this letter just read is an act done in furtherance of the conspiracy. The acts or declarations of one conspirator, done in furtherance of a conspiracy, are evidence against all the conspirators.

Now, you will bear in mind, gentlemen, that these remarks of the Court are merely on the legal effect of the evidence, and it is for you to say whether there was a conspiracy. It is for the Court to say whether the evidence tends to show that. In other words, it is for the Court to say whether there is such a question in the case for the jury to decide, and you are the supreme Judges of the facts as to whether there was in fact a conspiracy.

By Mr. Oeland:

1244

Q. Did you have any conversation with Mr. Robison about these letters? A. I did; yes, sir. When we went there I asked Mr. Robison for the military file and the copies of letters that had been sent out to the men making inquiries in connection with the draft and he produced the letters, showed them to me on his desk and got some from some other part of the place and brought them over on the desk and put them where I could get to them, and at that time I found on his desk some affidavits which were blank, part of them were blank, which had Mr. Rutherford's name signed to them and he told me that Mr. Rutherford had signed them before he left—

1245

Mr. Sparks: I object to it as not binding on the defendant Rutherford.

The Court: I think you are right about that. This would be a mere narrative, I should say, not an act done or declaration made in furtherance of the conspiracy.

Mr. Oeland: This was done long before the indictment.

The Court: Yes, but the conversation that the defendant Van Amburgh had with the witness, wasn't then and there an act in furtherance—the conversation that Mr. Robison had

was not an act in furtherance of the conspiracy. He was merely making an explanation, a mere narrative.

Mr. Oeland: We offer it against Robison.

The Court: Yes, it may be admitted against him and him only.

Mr. Sparks: We except as to the defendant Robison as not being within the conspiracy charged and not being one of the acts complained of in the charges 3 and 4, Counts 3 and 4; merely narrative, or something that was passed—the act that he is referring to is not one of his own acts and is an act of some other person, so it could not be an admission. He is telling what some other person did.

The Court: It would tend to show what knowledge he had as to what the other person had done or was going to do. I think it is admissible against Robison.

Mr. Sparks: Exception.

The Witness: He showed me other affidavits that he had there that were to be sent to a conscientious objector for him to fill out and file with his local board—in fact they were all set up in form, that is, they were form letters of different kinds, and he said that Mr. Rutherford when he left had asked him to take care of that end of the work—

Mr. Sparks: Same objection. I think your Honor sustained my objection to that.

The Court: Yes, this is merely evidence against the defendant Robinson.

The Witness (continuing): That he had been taking care of the work since Mr. Rutherford had left the city. Mr. Rutherford, he informed me, was in California.

By Mr. Oeland:

Q. Did he say anything about whether these letters had been written after the defendant left? A. He said they were written after Mr. Rutherford was away, and he had dictated the letters.

Q. Did you have any conversation with Van Amburgh at all about these letters? A. I had conversation with Mr. Martin in connection with the letters to conscientious objectors and to men who were seeking information in connection with the Draft Act from the association. He said you will have to go to see Mr. Van Amburgh to get that, Mr. Van Amburgh has a military file, and I went to Mr. Van Amburgh and asked him for the military file which he produced and handed to me.

1250

Q. The two letters there that have been read were in that file? A. Yes, sir.

CROSS-EXAMINATION by Mr. Sparks:

Q. When did you go to the association first? A. At which address, Mr. Sparks?

Q. Either one. A. February 27 to 17 Hicks Street.

Q. When was that? A. February 27.

Q. Did you have a warrant then? A. Yes, sir, I had a search warrant. 1251

Q. Who did you see? A. I saw a number of people when we went in, and asked for a man in charge. I finally met a Mr. Donald, who said that he was in charge during the manager's absence, Mr. Martin.

Q. Did you exhibit your search warrant? A. I did, served a copy on him at the time.

Q. Did you then proceed to take in your possession various books of the association? A. Not until the arrival of Mr. Martin and Mr. Van Amburgh.

Q. Then you spoke to them and told them what you

wanted, and demanded them under this search warrant. What did you take into your possession on that day? A. Correspondence files of different kinds that were labeled, had different marks on, like Italian file, German file, and so forth, as well as copies of different volumes, the books that they were publishing and selling, and copies of the International Bible Students' Monthly—in fact, all the literature that we could find that they were publishing there.

Q. You took into your possession on that day about 27 full letter files? A. Yes, sir.

1253 Q. And all the books and publications they were publishing at that time or had published in the place, that you could stack? A. All that we could find.

Q. And you took all that material to what place? A. To the office of the Military Intelligence, 302 Broadway, New York City.

Q. And then when was the next visit? A. The next visit was on March 1st at 122 Columbia Heights.

Q. And who did you see there? A. I saw Mr. Van Amburgh and Mr. Robison.

1254 Q. You asked them whether they had any letters from conscientious objectors, and Mr. Van Amburgh went to give you a file which you call or which was marked "Military File"? A. No, my conversation was directed to Mr. Robison at that time. Mr. Van Amburgh sat at the desk behind Mr. Robison and he was taken care of, he was questioned and talked to by Mr. McKenna, my assistant.

Q. You asked for certain things? A. Yes, sir.

Q. And they went to give them to you? A. They were lying on the desk. There were two big stacks of correspondence which I started to go over and I picked out the letters that I wanted in connection with the military construction and inquiry about military duty, which was sent in.

Q. Then you asked for the military file? A. Then I asked for the military file there, yes, sir.

Q. And Mr. Van Amburgh told you that there was such a file at No. 122 Columbia Heights? A. No, sir, I am talking about being at No. 122 Columbia Heights on March 1st, and we already had in our possession the military file on February 27.

Q. You had it in your possession? A. The one that Mr. Van Amburgh had at 17 Hicks Street—there were two.

Q. And you were looking for another one? A. Yes, sir.

Q. And you ask where the other one was? A. He said the files were on his desk.

Q. Then you took those? A. Yes, sir.

Q. Was that your last visit? A. No, sir. I called again at 17 Hicks Street, on March 4, for the purpose of securing the books of the organization.

Q. And on that third trip you took the books of account and check books and the canceled vouchers, and things of that kind? A. No, sir, I did not.

Q. What did you take? A. I took the account books. I asked Mr. Van Amburgh—Mr. Trevor asked Mr. Van Amburgh for the canceled checks and he said they did not have any.

Q. Did not have any canceled checks? A. Canceled vouchers was the term he used.

Q. You took at that visit all the books of account, showing the business done by the organization? A. Yes, sir.

Q. The receipt books showing the payment of money out? A. Well, we took their ledgers.

Q. You took everything? A. We took all the books that I could get, yes, sir.

Q. Everything that they had? A. I couldn't say as to that, sir.

Q. You took everything in sight? A. I took every-

thing that looked in the nature of an account book that I could get at that time.

Q. Everything you thought that might disclose any information as to the business and doings of the association? A. Yes, sir.

Q. And where did you take those? A. Took those to 302 Broadway, the office of the Military Intelligence.

Q. And they were there how long? A. I could not say positively, but I should say about five weeks.

1259 Q. During the five weeks that they were over at 302 Broadway, the Military Intelligence Bureau, you were working on these papers—were you going over them? A. Yes, sir.

Q. And you were assisted by whom else? A. By different members—Mr. Reynolds in particular.

Q. Who else? A. Mr. Reynolds and an accountant from a local accounting firm over in New York City. I don't know his name.

Q. And you did not bring those to the Commissioner who signed the search warrant, did you? A. No, sir; I did not.

1260 Q. You kept them over in New York in the Military Intelligence Bureau four or five weeks? A. Yes, sir.

Q. And you made no return to the Commissioner who issued search warrant until five or six weeks thereafter? A. No, sir; I made a return to the Commissioner within ten days, on the 9th day after the search warrant was issued.

Q. And that return consisted of what? A. Consisted of an itemized list showing what we had in the search warrant; at that time I asked the Commissioner if he desired the books and papers brought to his office, and he said no, to keep them where I had them.

Q. So that our books and papers were permitted

to remain over in the Army Intelligence Bureau after you made your return to the Commissioner? A. Yes, sir.

Q. For how many weeks? A. In my care and custody.

Q. How many weeks? A. As I said, I should judge it might have been six weeks, it might have been seven or it might have been ten weeks. I can't tell you exactly, sir, without consulting our records.

Q. When did they get into the actual possession of the Commissioner?

Mr. Oeland: That I object to. We are not trying the Commissioner here. A dereliction of duty on the part of the Commissioner cannot be tried here.

1262

Mr. Sparks: We are not trying to try the Commissioner. We want to show, if the Court please, that these papers went back to the Commissioner's hands, and as soon as the hearing started on these papers we made a proper demand upon the Commissioner for the return of them and we did not get them.

Mr. Oeland: In other words, he is trying what the Commissioner should have done before your Honor.

1263

The Court: How could we determine whether there was any proper demand, whether the Commissioner could or could not deliver, and how is any detriment to the defendants due to the fact that the Government several weeks ago informed them that they could have their books and papers back?

Mr. Oeland: The account books were returned several weeks ago.

The Court: I hardly think it would be material for us to decide what else there was there unless it is offered in evidence.

Mr. Sparks: We want to show that after about three months' work on the part of the Military Intelligence Bureau among these papers that they were able to cull out just the things that have been offered in evidence in this trial.

The Court: Ask the witness that. There may not be any dispute about that.

Mr. Oeland: There is a dispute to this defence that there may have been a lot of stuff which would be merely repetition of what was done. We did not think we had to produce every letter.

The Court: I take it you have offered them or given them back to the defendants, and if you don't produce them they can, so they are all available for use here.

Mr. Oeland: That is all we think necessary. If a man violated the law in one particular, we don't have to show he violated it 20 times.

Mr. Sparks: We are going to accept your Honor's suggestion, so we will bring these cases and other things in here and so we will adopt that procedure.

The Court: I am willing you should show that after all the work they did they only produced so much. It is the only logical conclusion that can be drawn from the facts.

Mr. Sparks: We will take that statement and withdraw the question.

By Mr. Fuller:

Q. Where did you take these files of correspondence? A. To our office, 302 Broadway, New York City.

Q. And kept them there for how long? A. I would like to have permission to consult my note book and I can tell you just how long.

The Court: You may. You don't have to have any permission.

The Witness (continuing): The letter files, together with all the property seized under the search warrant were turned over to the District Attorney on March 18.

Q. The letter files—these correspondence files were all taken on February 27, is that right? A. No, sir. All those from 17 Hicks Street, with all those that were taken from 122 Columbia Heights on March 1st.

Q. How many files did you take from 122 Columbia Heights? A. They were not in filing books, they were two bundles of them, loose correspondence on the desk taken and put in two bundles.

Q. The 27 full files that you took on February 27—you took 27 full files on February 27? A. I believe that was the number.

Q. When did you take them over to the Military Intelligence Office? A. On February 27.

Q. And they remained over there until? A. March 18.

Q. And on March 1st you took these two bundles of further correspondence—took them over to— A. 302 Broadway.

Q. They remained there to March 18? A. Yes, sir.

Q. Did you go over these 27 files? A. I did so far as I could.

Q. Did you have some assistants with you? A. I did.

Q. How many assistants did you have? A. Two.

Q. Did they work there during that period from the time that you got the files until they were turned over to the District Attorney? A. Yes, sir.

Q. All three of you worked on them? A. Only two.

1268

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Q. You and one other assistant? A. One other. Practically all the time I did have another man assisting, Mr. Reynolds who was assisting me there on that work, suffered with heart trouble and he had to give up his position which threw all the work back to be gone over again in the District Attorney's office, what Mr. Reynolds had covered.

Q. All those 27 files were gone through? A. Yes, sir.

Q. And the two bundles of paper which you took were also gone over and examined? A. Yes, sir.

1271 Q. This accountant that you say helped you in going over the books came from a firm of expert accountants? A. He is a certified accountant, not a public accountant.

By Mr. Sparks:

Q. Mr. Buchner worked on these papers with you also when they were over in the District Attorney's office? A. Not with me.

Q. He worked independently? A. Yes, sir.

Q. Did not you also assist him when he was working? A. I pointed out to Mr. Buchner certain papers that we had found.

1272 Q. And went over them generally for three or four weeks? A. Not with Mr. Buchner; no, sir.

Q. Somebody in the District Attorney's office? A. Nobody in the District Attorney's office; no, sir.

By Mr. Fuller:

Mr. Oeland: I think there ought to be some limitation to the cross-examination.

The Court: It will be allowed.

Q. You also went over all this literature that you took on either of these two days, did you not? A. I did not go over it all myself; no, sir.

Q. But you and your two assistants worked on it?
A. Yes, sir.

Q. Scanning the literature for violation of any statute? A. That is the English literature which I could go over.

Q. That offered any evidence of a violation? A. Yes, sir.

Q. And you caused the foreign language literature to be gone over by people who were familiar with the foreign languages, did you not? A. Yes, sir.

RE-DIRECT EXAMINATION by Mr. Oeland: 1274

Q. You spoke about getting some books and papers from Mr. Van Amburgh. What did you first get?

A. Mr. Van Amburgh first gave us a sort of a monthly statement drawn up on brown paper showing what appeared to me to be a daily book or daily sheet that he drew up showing the money received and the money going out, but it was Greek to us for the reason that we could not understand and the different figures that were on it.

Q. What did he say about any other books? A. At that time he said that was all the books on hand. That was our account book—that shows the money coming in and shows our standing. 1275

Q. Did you go back again and get other books later? A. Yes, sir.

Q. What were they? A. Ledgers and minute books of the Board of Directors.

Q. Did you ask anything about the check and stub books? A. Yes, sir; we asked for canceled vouchers, and at that time Mr. Van Amburgh said that he did not have any canceled vouchers. He said they were destroyed, he did not think that they were kept at all. That question was asked in the presence of Mr. Trevor and Mr. Buchner, the District Attorney.

Q. Did you subsequently get canceled checks and stub books? A. Yes, sir; through the aid of counsel for the defendant.

RE-CROSS EXAMINATION by Mr. Sparks:

Q. But you had all the stubs of the check books?

A. Yes, sir; but not canceled vouchers.

Q. But you had the stubs so you could tell to whose order every check had been drawn? A. Yes, sir.

1277 Q. Unless there was something on the book itself—

A. The stubs did not show the endorsements.

Q. Subsequently through counsel when you wanted to see these things those were made available to you?

A. Somewhat; yes, sir.

Q. Every one that you specified you wanted to see?

A. Some of them could not be found.

Q. You specified certain checks that you wanted to see, and you turned over to us a list of the checks that you wanted to see? A. Yes, sir.

1278 Q. And then we turned those checks over to you with the statement that certain individual checks which we were not able to produce were duplicates or had been cancelled, or accounted for them in some way, isn't that correct? A. That is correct, that is what I testified to.

By Mr. Fuller:

Q. About how many vouchers did you turn over to them? A. I did not make them an accounting—roughly I should say between 75 and 100.

Mr. Sparks: All that you specified, anyway, except where you made the explanation where they couldn't be produced, and of course we took your explanation.

Mr. Oeland: The Government rests, if your Honor please, except for some motions.

The Court: Now, have you introduced some evidence tending to show some act of each of the defendants here in furtherance of this alleged conspiracy?

Mr. Oeland: Yes, sir.

The Court: As to Rutherford and Van Amburgh I am clear about, and the two defendants who wrote the seventh volume I am clear about them, Woodworth and Fisher. Now, as to the defendant De Cecca, who was the one who wrote these letters, I am clear about him, and Martin, who was the manager, I am clear about him, and Robison. That leaves Mr. McMillan. 1280

Mr. Oeland: As to Mr. McMilan, there is a check in evidence which the witness, Mr. Conkey, said was in payment of the books, of these books countersigned by Mr. McMillan, then the additional fact testified to by the first woman witness, Mrs. Campbell, that McMillan was the general manager in the business of Mr. Rutherford, attending to the correspondence in Mr. Rutherford's absence. As I recall it, she testified that McMillan was the general manager and he was Mr. Rutherford's assistant, that is what she said, and acted whenever he was absent. Some testimony was given by that same witness, Mr. Hudgings, that in Rutherford's absence he took—he ran the whole place in Rutherford's absence. 1281

The Court: You have not shown any act or acts of McMillan except his signing of the checks.

Mr. Oeland: That is the only act outside of the fact that I asked this lady and she said

in Mr. Rutherford's absence he gave her directions as to what to do in the office and I asked the same fact of Mr. Hudgings. I think I asked her if she had general directions in Mr. Rutherford's absence—

Mr. Fuller: I think the testimony is that she understood that he looked after matters in Mr. Rutherford's absence; in respect to the correspondence she said she couldn't say, testified that he sort of helped out. In other words, that she understood he was in a representative capacity, but could not specify with any degree of particularity what character of duties he performed.

The Court: The check that has been introduced in evidence went to pay an account of what books?

Mr. Fuller: On the general accounts, that is to say printing—a check for \$25,000 on a general open running account which he admits receiving for the printing of some of these.

The Court: We will just reserve that for the moment. The Government rests, as I understand it?

Mr. Oeland: Yes, sir—I don't rest exactly. I want to go over the exhibits, one or two which your Honor kept in abeyance. At this stage we offer in evidence extracts from No. 1, Volume 9, International Bible Students' Association. That your Honor reserved decision on, it being this particular paragraph here (showing).

The Court: I am inclined to exclude that. I will hear you on that.

Mr. Oeland: We offered it exclusively for the purpose of showing hostility towards the general procedure of the war and intent—that is the only purpose of the offer.

The Court: I will admit that subject to the objections the defendants make.

Mr. Oeland: Your Honor will bear in mind that Adams said that they printed so many hundreds of thousands of those and sent them all over the United States.

Mr. Fuller: This article was written before the United States became a participant in this war.

Mr. Sparks: It was written before Pastor Russell died.

Mr. Oeland: Well, we will withdraw the offer. 1286

(Exhibit 12 for identification withdrawn.)

Mr. Oeland: The Government moves that all the evidence admitted against each and every one of the defendants be admitted against all the defendants on the ground that the issue as to whether there was a conspiracy shows a clear intent—

The Court: The only question I am doubtful about is whether the evidence against the defendant McMillan, whether there was any evidence tending to show that he conspired. I hardly think there was any evidence tending to show that he obstructed or did anything to cause insubordination or disloyalty. 1287

If there is no evidence tending to show he conspired, he will be discharged.

Mr. Oeland: I am of the opinion there is sufficient evidence against him for the following reasons:

The Court: We won't take up the merits of it just now. Of course, the Court don't know what the defendants propose to do. I might say that if you have any other evidence that the Government desires to introduce against the

defendant McMillan, I will allow you to do it tomorrow forenoon.

Mr. Oeland: It seems to me that he did Mr. Rutherford's work in his absence, took his place.

The Court: Would the Court be justified in drawing the inference, because he did his work in his absence, took his place, that he did knowingly and unlawfully—

Mr. Oeland: Except he countersigned the check which was testified was in part payment of debts for "The Finished Mystery," then following that, the fact of the continuous publication of it after June 30, down to November or December, the continuous publication and orders coming from the office of the Watch Tower Bible & Tract Society by which they were distributed all over the United States, and in addition to that sales from the office—that was proven by Robison, the money going in to Van Amburgh—I had that additional proof that Mr. Rutherford was absent at some of that time, and that was sufficient to connect him.

The Court: Could the inference be drawn that because he took his place in the business—wrote a letter, that he pursues the same general plan and the same policy as Mr. Rutherford—as to the check I am inclined to think the most he said on that is that he was not treasurer, but for their business organization it became necessary for him to countersign a check, and that when they paid the check it included a portion of these books. It might have been very well that he did not know what the book contained, not know what was in the

book, never have seen the book or read the book or even heard of it.

Mr. Oeland: Your Honor must consider this additional proof, that Mr. Rutherford was absent a large part of the time and that these sales were being continuously continued from the office—everything was done under Mr. Rutherford's supervision. When he was away this man was acting in his place. Martin was the man that sent them out. This lady said that everything was done under Mr. McMillan's control when Mr. Rutherford was away. That was the strength of the case. 1292

The Court: Well, the Government rests. What will the defendants do first?

Mr. Fuller: If your Honor please, on behalf of the defendant McMillan, I move a dismissal of the first count of the indictment.

The Court: Do you rest?

Mr. Fuller: No, sir.

The Court: Do you mean for the Court to direct a verdict—not on the face of the indictment?

Mr. Fuller: On the evidence.

Mr. Sparks: I think we have a right at the end of the Government's case to move for a direction of a verdict on the evidence adduced, just the same as in a civil case we move to dismiss the plaintiff's case on the ground that they have not proven a cause of action. 1293

The Court: How do we know there won't be any evidence? The proof is not all in.

Mr. Sparks: The defendant is not put to his proof unless the Government has made out a case. He is not put in that position until the People established some evidence to show he has made out a crime. He is not called upon

1294

Motions

to put in any defense until the Government shows he has committed a crime.

The Court: Well, we will follow your practise.

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Mr. Fuller: Then I ask for a direction of a verdict in favor of the defendant McMillan under the first count of the indictment, upon the ground that there is no evidence sustaining the charge set forth in the first count in the indictment with respect to McMillan. That is the motion. I don't know whether your Honor has it clearly in mind—that is the first count, the conspiracy.

The Court: The question that is doubtful with respect to Mr. McMillan is whether there is anything tending to show whether he conspired. Counsel for the Government don't claim there is any evidence tending to show he attempted to cause insubordination, disloyalty and refusal to duty or that he obstructed the enlistment service.

Mr. Oeland: No act against him. There are the two conspiracy charges against him.

1296

Mr. Fuller: I will finish the motions. I make the same motion on behalf of the defendant McMillan with respect to this charge set forth in the second count of the indictment, and I move that the Court direct a verdict for the defendant McMillan on the ground that there is no evidence tending to support the charge in the third count of the indictment and the same motion upon behalf of the defendant McMillan with respect to the charge set forth in the fourth count of the indictment.

The Court: I will not dispose of it finally this afternoon, but I am inclined to grant your motion. The Court takes this view of it. The

fact that he signed a check and paid a bill including an item for the publication of these books, I am not inclined to think that we should draw the inference that he knew what was in the books, and the mere fact that he took the place of the president, did his work in his absence, because of that we should not draw the inference that he did anything illegal in his business—the mere fact that he took the president's place and did his work in his absence without showing any act leading to the same result as these other acts led to, except the signing of that check—

1298

Mr. Oeland: There is one part of the testimony of Mr. Conkey that I want to examine before morning.

Mr. Fuller: I will say that our position is here so far as the charge of conspiracy is concerned that the existence of the corrupt agreement necessary to a conspiracy, the common purpose of common mind, the concerted activities of the corrupt cannot be spelled out by the evidence offered by the prosecution. With respect to the others, of course there is a distinction as compared with Mr. McMillan—our position in respect to all the defendants is that the charge of conspiracy in itself is not substantiated because there is not enough in the case to justify a charge, a consideration of the question as to whether there was a corrupt agreement. There is not any evidence of a corrupt concert of action brought home to the minds of the defendants, so I desire if I can to make a motion for a direction of a verdict on behalf of the defendant Fisher, and I would like to say just a word in respect to him. I move that a verdict be directed in his favor upon the first

1299

and second counts of the indictment and upon the ground that there is not sufficient evidence of the existence of any conspiracy in which the defendant Fisher participated. I also desire to—

The Court: He wrote a part of this book.

Mr. Fuller: I want to draw your Honor's attention to a particular fact in respect to Fisher. The evidence is that the defendant Fisher had written approximately one-half of this book. He wrote it without an arrangement with the author of the other half, without knowledge of what the other person wrote. The half that the defendant Fisher wrote contains nothing in it recited by the prosecution as constituting any violation of the law with the exception of two paragraphs.

1301

The Court: What would be the legal effect if he wrote one-half and then had it printed with the other half and put it out in one book? Wouldn't he be held to it?

Mr. Fuller: That inference cannot be drawn. A man would not be safe in sending an article to a periodical. What is the difference between the defendant Fisher sending in his half of the book for printing and the position of the defendant Fisher if he had sent in the book of Ezekiel to the Metropolitan magazine and had it approved and that same issue of the Metropolitan magazine contained another article on the book of Ezekiel which was objectionable?

1302

(Discussion and argument.)

Mr. Fuller: Now, I desire to move for a direction of a verdict in favor of the defendant Fisher under the third count upon the ground that there is no evidence of a character suf-

sufficient to support the charge as to the defendant Fisher which comes under the third count. He is charged with an attempt to cause insubordination, disloyalty and refusal to duty.

Decision reserved.

Mr. Fuller: And I make a like motion on behalf of the defendant Fisher with respect to the fourth count that he obstructed the recruiting and enlistment in the service of the United States.

The Court: On these motion you have made up to this time with regard to Mr. Fisher, 1304 unless you have something further to say, I am inclined to deny each of these motions.

Exception to defendant Fisher as to each ruling.

Mr. Fuller: I make the same motion with respect to the defendant Woodworth under each count.

The Court: Each motion denied.

Exception to defendant Woodworth as to each ruling.

Mr. Fuller: I desire to make the same motion with respect to each count of the indictment on behalf of the defendant De Cecca, and I would like to say just a word in respect to that. 1305

(Discussion.)

The Court: As to defendant De Cecca, each motion denied.

Exception to defendant De Cecca as to each ruling.

Mr. Fuller: As I understand it there has been a motion made on behalf of each of the defendants, McMillan, Fisher, Woodworth and De Cecca on each one of the counts, and each motion has been denied and an exception has

1306

Motions

been taken in each instance on behalf of each of the defendants affected by the motion.

Mr. Sparks: I make a motion in respect to Robert J. Martin for a direction of a verdict in his favor on the first and second counts.

Now the only evidence so far as Mr. Martin is concerned that I can recall is that he was the general manager down at the Bethel Home or at the Tabernacle. I cannot see that the office of general manager can of itself connect him with the conspiracy unless he does some particular act which shows that he was conscious of some illegal crime and that he did some act in furtherance of the illegal crime himself.

1307

Mr. Oeland: The evidence as to Martin was some testimony given by Mr. Converse that he was not responsible for things that came in but he was responsible for everything that went out of the plant. He supervised the shipping of everything that went out. That was the testimony of this young lady.

Mr. Sparks: There was not a single sale shown in connection with Martin. I assume what they charge here would apply with equal force to any publication sent out by any other large publishing book concern in New York. The mere fact that a man is general manager is not a presumption that he has knowledge of all the books that go out of the establishment. The mere fact that a man was there as general manager shipping those books out from the place doesn't show that he had knowledge of the contents of a particular book—that that in and of itself would not connect him with the conspiracy, but you would have to go further than that, connect him up in some way. A general manager is only a servant of a cor-

1308

poration to do its bidding. If you can hold Mr. Robison for sending the books out, every time these young ladies wrap up these books and address the package and send them out throughout the country, then there is just as much evidence against them as against Mr. Martin, except that he has a greater scope for his work, and that the mere sending out of a book is not sufficient to connect a man with a conspiracy.

(Discussion.)

The Court: I am inclined to deny this motion as to Robert J. Martin. 1310

Mr. Sparks: Same motion as to the third and fourth counts.

Motions on behalf of defendant Martin denied separately and defendant excepts to each ruling of the Court.

Mr. Sparks: I make a motion for a direction of a verdict in favor of the defendant, Frederick H. Robison, on the ground there is nothing so far as the first and second counts are concerned to show that he entered into any conspiracy.

I think the evidence in reference to Mr. Robison is even less cogent in connection with this conspiracy than it is as to Mr. Martin. They don't even prove that these books were sent out with his permission. The only evidence in this case against him is these letters that he signed in answer to the inquiries made by various men who were within the selective draft, but not a single scintilla of evidence as to his connection with the conspiracy. If he be held in at all it can only be under the third and fourth counts of the indictment, so I am limiting my motion now to one and two. 1311

1312

Motions

The Court: I am inclined to deny this motion or each of these motions of the defendant. Defendant excepts.

Mr. Sparks: As to the third and fourth count of the indictment I move for a direction of verdict of acquittal on the ground that Mr. Robison was acting clearly within the provisions of the Selective Service Act and that he could not, and you cannot find a crime has been committed by an act which is expressly authorized by the Selective Service Law itself.

1313

Each of the motions denied.

Defendant excepts to each ruling.

Mr. Sparks: I move for the direction of a verdict of acquittal in favor of the defendant, Joseph F. Rutherford on the first and second counts on the ground that there is no evidence connecting him with the conspiracy except the mere fact that he is an officer of the corporation itself and that you cannot presume, in connection with a corporation or an incorporated association such as this, a membership corporation, by the mere holding of an office itself—that there must be some evidence and there is no evidence to show that Mr. Rutherford had any connection aside from the fact that he was an officer.

1314

Each of the motions denied.

Defendant excepts to each ruling.

Mr. Sparks: I make the same motion in reference to the defendant Rutherford on the third and fourth counts upon the ground that there is no evidence tending to show that he in any way interfered with the draft, or insubordination, in the words of the indictment itself.

Each of the motions denied.

Defendant excepts to each ruling.

Mr. Sparks: I make the same motion as to the defendant Van Amburgh, upon all the grounds specified in reference to the defendant Rutherford.

Motion denied as to each count.

Exception to defendant Van Amburgh on each ruling.

The Court here announced an adjournment until tomorrow morning at ten o'clock.

Brooklyn, New York, June 11, 1918.

The Court met pursuant to adjournment.

Present: The Court, counsel and jury as before.

Mr. Oeland: If your Honor please, I desire to reopen the case to introduce one piece of evidence that was overlooked.

The Court: You may.

Mr. Oeland: I ask that this paper be marked for identification.

The paper was marked Exhibit 31 for identification.

Mr. Oeland: And the pages are 140 to 148 inclusive and ask that they be marked for identification of this Court.

The pages referred to were marked Exhibit 32 for identification.

Mr. Fuller: What is that?

Mr. Oeland: It is a minute book.

WILLIAM F. HUDGINGS was recalled as a witness for the Government and testified as follows:

Direct-examination by Mr. Oeland:

Q. Do you know the signature of Mr. Van Amburgh? A. I have seen it many times.

Q. Do you know the signature of MacMillan? A. I have seen it also?

The Court: Have you seen him write?

The Witness: I won't say I have seen him write.

The Court: What is your best recollection as to whether you have seen him write?

The Witness: I think I have never seen him write.

The Court: Well, write anything—the signature or not?

The Witness: I have not watched that.

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The Court: I did not ask you whether you ever saw them write, I want an answer yes or no?

The Witness: I said no.

Q. Have you seen letters that they have signed and handed out? A. I have seen checks they have signed themselves but not letters.

Q. You have seen checks then signed? A. Yes, sir.

Q. Is that right? A. Yes, sir.

The Court: You have been there how many years?

The Witness: About nine years.

The Court: Continuously?

The Witness: Yes, sir.

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The Court: And both these gentlemen have been there in that place of business nine years?

The Witness: Almost continuously; yes, sir.

The Court: And you tell us that you have never seen either of them write with a pen or pencil; never see them in the act of writing?

The Witness: No, sir; I never stood over their shoulder.

The Court: I did not ask you where you stood. I asked during that nine years you tell us whether, upon your oath, that you never saw either of these gentlemen in the act of writing. That is what the Court asks you, sir.

The Witness: I do not remember that I ever saw either of these gentlemen in the act of writing.

The Court: What is your best recollection whether you ever did or not?

The Witness: That is my best recollection.

The Court: Tell us how your workshops or your different places where you do your work are located; how often are you in one another's presence?

The Witness: I am very little in Mr. Van Amburgh's presence. His office is separated by a partition. I am more frequently in Mr. MacMillan's presence, but not to see him do any writing.

1322

The Court: And when you were in his presence, is he at his desk doing his work?

The Witness: Part of the time?

The Court: And during that entire nine years you never happened to see him in the act of writing?

The Witness: Not that I can now recall. That is my best recollection.

Q. I hand you Exhibit 31 for identification and ask you if at any time—I will ask you if that is a facsimile, a mimeograph copy of the signatures of MacMillan and Van Amburgh? A. It looks very much like it.

Q. Didn't you ever see that around the office there; didn't mail out copies of that? A. I didn't mail out any copies of these, but I have seen this paper, I think I have seen something very similar to it.

1323

Q. In whose hands did you see it? A. I do not know that I saw it in anyone's hands. I have seen it laying there on some of the desks.

Q. Wasn't that discussed with you, that particular paper, the original of it, before those mimeographed copies were made? A. It was not discussed by me, but I have seen the paper.

Q. And you saw the original? A. I am not able to say that I saw the original.

Q. How many of those mimeographed copies have you seen? A. I have seen, I think, the stack of papers, probably an inch thick.

Q. Of which that is a copy? A. I think that is a copy.

Q. That is one of the original mimeographed? Now, isn't that the signatures of Van Amburgh and MacMillan, two of the signatures. I am not asking you about all of that. I mean a mimeographed copy of the original signatures of Van Amburgh and MacMillan? A. It looks like the handwriting of Mr. Van

1325 Amburgh and Mr. MacMillan.

Q. Is that the best you can say about it? A. That is the best I can say.

Q. Will you say it is not a mimeographed copy of their signature? A. No, I would not say that.

Q. Would you say it is a mimeographed copy of their signatures? A. No. I would not say that.

The Court: Why not?

The Witness: I can only say it looks like their writing. That may be a forgery for all I know. I did not see them write it.

1326 Q. Do you think you would have so many copies of forged instruments around there? Where did you see these copies? A. On one of the desks, I do not remember which desk it was.

Q. Whose desk was it? A. I cannot recall.

Q. Whereabouts was it? A. At the office of 17 Hicks Street.

Q. When did you see them? A. It is July 17. I would therefore suppose that it was in July, 1917.

Q. And you saw them around the office there in a stack? A. Yes, sir.

Q. Who does the mimeographing there? A. I do not know.

Q. Did you ever see any mimeographing done there? A. I have.

Q. You had a machine for that purpose? A. No, we had no mimeograph in 1917 that I recall. This was probably printed by some other process.

Q. Do you know anybody around there that writes as near Van Amburgh and MacMillan as that signature? A. No, I do not.

Q. What made you say it might be a forgery?

Mr. Sparks: I object to that.

The Court: It is admitted.

Mr. Sparks: Exception.

A. Because it would be very possible to produce a forgery here. 1328

Q. You say that is a copy or an original of the mimeograph around the office there? A. Yes, sir; I haven't read it through, but the general appearances looks to be the same as I saw in the office at 17 Hicks Street.

The Court: You ask him whether he knows anyone around that office that did see any of these gentlemen write.

Q. Well, can you tell us anybody around there that did see them write? A. No, I cannot.

Q. They did not go off and do it in secret, did they? A. I don't know. 1329

The Court: Now are you serious in your answer that you have just given that you don't know whether they went off and their writing in secret? Are you serious about that, young man?

The Witness: I am very serious.

Q. Did you ever take a check from Van Amburgh and go have it countersigned by MacMillan? A. I think so.

The Court: Why did you say you think?

Page 444 in the original transcript is blank.

Page 445 in the original transcript is blank.

Q. Well, you looked on the signatures on the checks he handed to you? A. Sometimes I would, and sometimes I would not; just to see whether it was signed.

The Court: Do you know anyone there that has seen either of these gentlemen write or who would be likely to see them write?

The Witness: Mr. Van Amburgh's assistant, probably.

Q. Who is he? A. Mrs. Meyers.

1337 Q. Where is Mrs. Meyers? A. I do not know where she is.

Q. When did you see her last? A. A day or two ago.

Q. Where? A. At 122 Columbia Heights.

Q. Well, is she still there? A. I presume she is at 17 Hicks Street, where she usually works every day.

Q. Well, did you see her this morning? A. I did not.

Q. Did you see her yesterday morning? A. No, I do not think I saw her yesterday morning.

Q. Have you seen her since Wednesday of last week? A. I think so.

1338 Q. Where? A. In the dining room at 122 Columbia Heights.

Q. Now, you had no reason to think that these Van Amburgh checks had been forged by somebody when they were handed to you by him? A. No, I do not.

Q. Now, the signatures that you saw there and looking at that mimeographed signature there, is it your opinion that is Van Amburgh's signature? A. It looks like Mr. Van Amburgh's signature.

Q. Well, what is your best opinion of it? A. That would be my best opinion, but I might be mistaken.

Q. Oh, we are all liable to be mistaken, but that is your best opinion that this is a copy of his signature on a mimeograph? A. That is my best answer.

Q. You would not mind taking a check with that signature on it as genuine?

Mr. Sparks: I object to the form of the question.

The Court: Yes. I am inclined to exclude that question.

Mr. Oeland: The question is withdrawn.

Q. You have taken those checks signed by Van Amburgh to MacMillan and you have received back the check countersigned by MacMillan? A. Yes, sir.

Q. Looking at the mimeographed signature there what is your best opinion as to whether or not that is MacMillan's signature? A. It looks very much like Mr. MacMillan's signature.

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Q. What is your best opinion? A. That would be my best opinion, but I might be mistaken.

Mr. Sparks: I ask the Court, in view of the fact that we have sat silent here under this examination of this witness, that it is no part of counsel's duty to suggest to any witness under examination under the latitude that your Honor allowed the Government to cross-examine, to suggest or make any objections under the circumstances and that his failure to recollect shall in nowise be taken as against—that they shall assume no hostile attitude as against the defendants for that reason.

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The Court: The requested instruction is denied.

Mr. Sparks: Exception.

The Court: I do not propose to stop and instruct this jury every two minutes, and at the request of the Court I think that counsel for the Government should ask this witness more about the opportunities and probabilities of his

seeing this person write. It is a very extraordinary situation here. Very extraordinary testimony. It is very improbable.

Q. What part of the work does Mr. MacMillan do?

A. He oversees the work in a general way of the office at 17 Hicks Street. He dictates some letters.

Q. Have you seen him dictating letters? A. Yes, sir.

Q. Have you seen the letters after he has signed them? A. I do not recall that I ever saw any of his letters after he dictated them.

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Q. You do not recall ever seeing any letters sent out by him? A. I do not.

Q. What part of the work do you do? A. I am the printing clerk and looking after the clerical end of the printing for the society.

Q. Don't you frequently have printed matter that is prepared by MacMillan or Van Amburgh? A. Yes.

Q. Don't Van Amburgh get up something like a yearly statement? A. But it is usually typewritten. There is no manuscript about it. His handwriting.

The Court: Does he have pen and ink on his desk? Do you know about that?

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The Witness: I am quite sure that he did. Everybody does.

The Court: Have you seen pen and ink there and pencil?

The Witness: Yes, all of that.

The Court: Now, ask him more about how often he is in there and what the occasions are why he goes there.

Q. What occasion have you to go to Mr. Van Amburgh's office? A. I am probably in Van Amburgh's office about once in two months.

Q. Are you in the same building with him? A. Yes, sir.

The Court: Now, Mr. Witness, you do not mean that you have seen him write his signature? Have you ever seen him in the act of writing with a pen, pencil or whatever the writing may be or the signing of his name or writing anything else, writing in a book on any kind of book or paper or other material? Now, the question is whether you have ever seen him in the act of writing, not how much or how little, but whether you have ever seen him in the act of writing. That is the question this Court wants you to answer.

The Witness: I cannot answer yes, unless I knew 1346
it was a correct answer. Therefore, I cannot answer yes to that question.

The Court: Did you know him before you went there to work?

The Witness: No, sir.

The Court: So your acquaintance extends for a period of nine years?

The Witness: Yes, sir.

The Court: Did you go away on trips with him?

The Witness: No, sir, not with him.

The Court: Or in his company?

The Witness: No, sir, that has probably occurred during the nine years.

The Court: Been at hotels together? 1347

The Witness: During conventions I think that has occurred.

The Court: Why do you say "think," don't you remember about that?

The Witness: I do not recall that I have ever put up at hotels with Mr. Van Amburgh, but I would not say that I have not, because we have many conventions.

Q. Have you traveled on the trains with him? A. Yes, I have traveled on the trains with the conventions.

Q. Have you seen him sign his signature on the hotel register? A. No, I never saw that.

Q. Where did you stop when you went to these conventions; you all stop at the same place, don't you?

A. No, not always.

Q. Did you sometimes? A. If the convention is a large one all the hotels in the city are full and we stay at different places.

Q. Did you ever look at Van Amburgh's books at any time; did you look to see what the entries were made for? A. I have never looked at Mr. Van Amburgh's book that I remember.

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Q. How about MacMillan? How long has he been working there? A. He has been there off and on for the past eight or nine years. Not the greater part of that time, however. Most of the time he has been out traveling.

Q. He was the assistant to Mr. Russell before his death? A. For a short period before his death.

The Court: Which is the defendant, Mr. MacMillan?

(The defendant MacMillan is pointed out to the Court.)

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Q. What work did he do in Mr. Russell's lifetime while he was there? A. He had general charge of the office under Pastor Russell.

Q. Well, you were there in the same building with him? A. Yes, sir.

Q. Living at the same house with him? A. Yes, sir.

Q. See him three or four times a day; at meal times? A. Yes, when he was there and when I was there.

Q. You have seen him at his desk? A. Yes, sir.

Q. Where was his desk with reference to your desk? A. It was in the same office, not a great distance apart.

The Court: The same room?

The Witness: Yes, sir.

The Court: Your desk is in the same room his desk is in?

The Witness: It is a very large room, about twenty or thirty desks.

The Court: It is not so large but what you could see across it?

The Witness: No, sir.

Q. How far was your desk away from MacMillan's? A. About ten feet, I think.

Q. Anything intervening between you and MacMillan? A. No, sir.

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Q. You could see him sitting at his desk? A. My desk for the greater part has been with my back to Mr. MacMillan's desk, but recently it has been turned so it is alongside. That is, my side is toward Mr. MacMillan's desk, a little in front.

Q. How far away from him? A. About ten feet.

Q. And you have been there within ten feet of him for a year and a half? A. I guess it is about that long.

Q. And you have never seen him writing with his pen?

The Court (interposed): Or pencil?

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The Witness: I cannot say that I can recall that I have ever seen him in the act of writing. I would not say I have not, but I would not say that I have.

The Court (addressing the clerk): Have you any forms here committing a witness for contempt? Well, you direct the clerk to get up the commitment papers. This witness is going to be committed for contempt of court. The Court is thoroughly satisfied, Mr. Witness, that you are testifying falsely when you say that you cannot recall of ever seeing Mr. Mac-

1354

William F. Hudgings

Millan write, and this has happened several times during this trial with other witnesses, especially with your wife. I believe—is that right, Mr. Judge Oeland?

Mr. Oeland: Yes, she was one of the witnesses.

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The Court: And it becomes the plain duty of the Court to commit you to jail, sir, for contempt, and before doing so, I think it is the duty of the Court to explain to you that the answer, "I do not remember of ever having seen him write," is just as false, as just as much a contempt of court if you have seen him write, as it would be for you to say that you had never seen him write, without using the expression, "I do not remember." Now, we will adjourn here for a few moments. The Court desires you to have every opportunity to correct your answers if you so desire to do so, and the Court suggests that it would be very proper for you to talk with a lawyer about the situation. Counsel for the defense or counsel for the Government or anyone else you may desire to, but I am not going to allow you to obstruct the course of justice here, and if this nation has delegated power enough to this Court and I am very sure it has, to deal with you in the manner proposed, I am going to do it. Now, a good many times a lay witness comes into court with the notion that if they say they do not remember that that is a complete answer. I desire to inform you that that is not a complete answer when the fact is that you do remember, or the fact is that you could not fail to remember. Now, we will take a recess for about ten minutes.

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The Witness: Would it be proper for me to make a statement?

The Court: You may make a statement, but it would be more prudent, I think, after you confer with some-

one, because you evidently have a wrong notion of this situation. Now, it is the duty of the Court to be indulgent with you and considerate with you and give you every opportunity to do right. I would not like to have you, or anyone else think for a moment that that course will not be taken up. You see the situation is a very remarkable one, Mr. Witness, in having a desk in the same room with a man for so long and transacting so much business with him, and being present when so much business has been transacted by him. The answer that you do not remember of ever seeing him write, would be, in the opinion of the Court, impossible, and when I say "impossible," that is a strong word, but the situation is so remarkable that I feel very sure that I am justified in that. Now, you are the third witness who has taken this course. Is it the fourth witness, Mr. District Attorney?

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Mr. Oeland: This is the third witness, your Honor, and the Italian witness.

The Court: Well, the Italian witness is not very well to be classed with him, I think.

Mr. Oeland: No, I would not stick to it.

The Court: And the Court has sat here several days listening to this and it becomes the plain duty of the Court to commit you for contempt and deal with you otherwise, if necessary.

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Mr. Sparks: Before the recess I would like to make an objection.

The Court: Yes. But this is dealing with the witness.

Mr. Sparks: I understand, but I have the right at any stage of the case to make a motion such as I am going to make.

The Court: Well, we will hear you.

Mr. Sparks: In view of the fact that this has occurred at least three times during the trial of

1660 this case, and the Court has expressed its opinion as to the truthfulness of the witnesses, the witness in each case claiming that they or she were doing the best they could to answer the questions put to them, in view of the fact that they could not state and answer the question from their own knowledge, and in view of the fact that the Court has without any doubt indicated to the jury this witness was telling an untruth, and in each case telling them that unless they modify their testimony after an adjournment, I feel that these various occurrences have resulted in great prejudice to the defendants, and cannot help but affect the jury in their deliberations upon this case when it finally goes to them, especially in view of the fact that these three witnesses are members of the same organization, that that will have its effect unconsciously and there is nothing that the Court can say to them, in view of these various occasions, which will eradicate this impression from their minds. I also object upon the ground that these witnesses have been called by the Government itself, and the Government is in no better position to impeach their own witnesses than any plaintiff or party in any civil suit, and this impeaching of the witness by the Government, is contrary to all the known rules of procedure on the question of impeachment, and we respectfully ask, in view of all the facts, to withdraw a juror.

The Court: To what?

Mr. Sparks: To withdraw a juror.

The Court: Well, the motion is denied.

Mr. Sparks: I take an exception.

The Court: And in denying the motion the Court desires to say that this is not an extraor-

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dinary procedure in the least. Nothing 1663
has been done to violate the rules as to the im-
peachment of witnesses. The Court has a right
to express its opinion in the circumstances of
the present situation. If the Court fails to do
so, it would not do its duty. The Court has
even a right to express its opinion as to the way
the verdict should go in a case in this court.
I never exercised that right, and if the course
suggested by counsel for the defendants was
the proper course to pursue, then in any trial
the Government could be defeated or in civil
suit a plaintiff, or defendant might be defeated
in his case or in his defense, because a witness 1664
comes in and says "I do not remember," would
be unable to proceed and complete the trial of
any case. That would be giving a witness or
witnesses the power to stop all proceedings in
court. And as is said in this motion, gentle-
men, as to prejudicing you against the defend-
ants, there is no evidence in the case that any
of these defendants are responsible for this
witness's testimony. There is no evidence in
the case to justify you in drawing the infer-
ence that any of these defendants are responsi-
ble for the attitude taken by the witness, so you
should not draw any inference against the de- 1665
fendants. The young man on the stand is a
witness called by the Government. Whatever
their relations may be, as appears by the testi-
mony, would not warrant the Court or the jury
in charging this up, so to speak, to the defend-
ants, or any of them, so you should be very
careful not to let the conduct and the testimony
of the witness in the respect indicated work
any harm against any of the defendants. Now,
before we take our recess, Judge Oeland, I wish

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William F. Hudgings

you would ask him how long they have had their desks in the same room. I understood him to say one time more than a year and a half.

Mr. Oeland: That is the way I understood him.

The Court: I understood him another time to say a year and a half.

Mr. Sparks: Nothing in the Court's remark in reference to my motion can be deemed by me to have cured the situation which I assume to exist.

1367

The Court: Not in the least. The motion is denied, and what the Court said is in explanation of the ruling it made in denying the motion.

By Mr. Oeland:

Q. How long have you been within ten feet—your desk being within ten feet of Mr. MacMillan? A. About a year and a half.

The Court: How long has your desk been in the same room with Mr. MacMillan?

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The Witness: About a year and a half.

The Court: Before this year and a half did you occupy different rooms or workshops?

The Witness: He was not there, he had no desk.

The Court: What kind of a desk do you work at, whether roll top or flat top?

The Witness: Roll top.

The Court: And what kind of a desk does Mr. MacMillan work at, whether roll top or flat top?

The Witness: Roll top when he is there.

The Court: I did not ask you when he was there. Are there any other desks in this room?

The Witness: Yes, sir, about thirty.

The Court: About thirty desks?

The Witness: Yes, sir.

Q. You go to the place of work with him in the morning? A. Very seldom.

Q. You both stay at the same place? A. The same place.

Q. And go there at the same time in the morning? A. No, not very often.

Q. Well, did you see him there during the day-times or did you see him at noon? A. He is in and out.

Q. Is he in every afternoon? A. Part of the time.

Q. And did you talk with him in the office? A. Part of the time.

Q. Did you talk with him every day that he is there pretty nearly, don't you? A. We have some relationship, yes, sir, every day.

Q. You go and visit at his desk about matters, getting information as to what he wants done, he being the general manager? A. Sometimes.

The Court: Is not that often?

The Witness: Yes, I might explain that Mr. MacMillan has very little work at his desk. His work is mostly overseeing and going back and forth between the Brooklyn Tabernacle and Bethel. I could not at the present moment say that I have seen pen and ink on his desk.

The Court: You said a little while ago that you had.

The Witness: I had in mind Mr. Van Amburgh, and I could not say that I have not seen pen and ink on Mr. MacMillan's desk, but I could not say that I have either.

Q. But in the year and a half there you say you were within ten feet of him, and you do not know that you ever saw pen and ink at his desk? A. His

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desk is within ten feet and he is there very little of that time.

Q. Is there once a week? A. Yes, he is there practically every day in and out. He does some work at that desk.

The Court: He does some work at that desk?

The Witness: He dictates there, and when he is through he will close his desk down and go away.

Q. Don't he sign letters there? A. I suppose he does.

1673 Q. Have you ever seen him signing letters there in the year and a half? A. I cannot recall it. My back is to him most of the time.

Q. When did you turn your face towards him? A. When he would get out of his seat and walk over there for something.

Q. When you walked over there did you see him transact any business with pen and ink? A. I cannot recall it.

Q. He did not just sit there and do nothing? A. He would be reading and looking over papers; something like that.

1674 Q. And you never saw him take a pencil and O K this order or that order that would come in the office? A. I do not remember that ever having occurred.

Q. Well, do orders that come into the office go to his desk for instructions? A. No, that would not be the usual course of business.

Q. Don't mail come to his desk that is sent from there to other desks to be answered? A. No, sir, all letters don't go to his desk. Very few, it is my recollection.

The Court: Well, you have been away attending these meetings and conventions, have you dined with him?

The Witness: On some occasions.

The Court: In a dining car?

The Witness: No, I do not think we have been in a dining car together.

The Court: In hotels?

The Witness: I think we have been in a hotel together, but not in the same room.

The Court: Never dined with him in a hotel on the European plan—in a restaurant where you make out—or a railway dining car—where you make out a schedule of the things to be served. Did you see him write?

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The Witness: I think not.

The Court: Does he carry a little pocket memorandum book?

The Witness: I could not say.

The Court: Did you ever see him write in that?

The Witness: I do not know that he carries one.

The Court: You cannot tell about that?

The Witness: No, sir.

The Court: Tell the Court whether you care to take any further time on this matter, do you?

The Witness: My time is your time.

The Court: I suggest that you might confer with counsel.

1677

The Witness: No, sir, my answers will be exactly as they have been.

The Court: Very well. You are adjudged to be in contempt of this court and you are ordered to be committed to jail forthwith. Mr. Clerk, you prepare the commitments. You are in the custody of the marshal from now on. And you may call the next witness.

ALFRED I. RITCHIE, a witness, being called in behalf of the Government, and duly sworn, testified as follows:

Direct-examination by Mr. Oeland:

Q. Mr. Ritchie, I hand you—you at one time were connected with the society over there, either at the Bethel or at the Tabernacle, were you not? A. Yes, sir.

Q. And what time did you leave there? A. I left the Tabernacle in October, 1916, and left Bethel in August, 1917.

Q. And you were acquainted with Mr. Van Amburgh at the time you were there? A. Yes, sir.

Q. And knew his handwriting? A. Pretty well, yes sir.

Q. You have seen him write? A. Yes, sir.

Q. I hand you Exhibit 31, and ask you if this is Mr. Van Amburgh's handwriting or a facsimilie of it?

The Court: Mr. District Attorney, as part of this proceeding I want you to present the testimony of this young man as given, to the Grand Jury, with a view of finding an indictment against him for wilful perjury, and I wish that would be taken up immediately to your office and report to the District Attorney himself, and proceed immediately before the Grand Jury. I understand you have a Grand Jury in session?

Mr. Buchner: There will be one at two o'clock.

The Court: The Grand Jury is in attendance?

Mr. Buchner: Oh, yes.

Q. Is that a facsimilie, a mimeographed copy signature of Mr. Van Amburgh? A. I think it is.

Q. Did you know Mr. MacMillan while you were there? A. (No response.)

Mr. Sparks: We make the same objection.

The Court: Well, gentlemen of the jury, I should say the action of the Court in this regard should not be considered by you. You should draw no inference against these defendants, because there is no evidence in the case warranting it at the present time, and you will give attention, Mr. Reporter, to transcribing this testimony, in order that it may be used this afternoon. We will stop here for about ten minutes in order that we may obtain another reporter.

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Mr. Sparks: Will your Honor have an exception noted for all of these defendants?

The Court: Certainly. All of these defendants, so far as they are entitled to an exception to this proceeding against the witness and not against the defendant.

(At 10:50 A. M. a recess was taken for ten minutes.)

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After recess.

ALFRED I. RITCHIE resumed the stand.

Direct-examination resumed by Mr. Oeland:

Q. I think you said you had seen Mr. Van Amburgh write frequently? A. Yes.

Q. And you saw Mr. MacMillan write, not so frequently as Mr. Van Amburgh? A. Yes.

Q. I hand you Exhibit 32 for identification, on page 148, and ask you to look at that signature, and I ask

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Clarence L. Converse

you whose signature that is, to the best of your opinion? A. To the best of my opinion it is Mr. Van Amburgh's signature.

Q. I hand you Exhibit 31 for identification, and ask you to look at the two signatures or purported signatures, of MacMillan and Van Amburgh, and ask you first as to Van Amburgh, if in your opinion that is a mimeograph copy of his signature? A. I think it is. I recognize it as such.

Q. Mr. MacMillan's? A. Mr. MacMillan's is not so recognizable, but I think it is his signature.

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CLARENCE L. CONVERSE, recalled by the Government, further testified as follows:

Direct-examination by Mr. Oeland:

Q. I hand you Exhibits 31 and 32, I hand you a book in which the pages are marked Exhibit 32 for identification, being pages 140 to 148, and ask you where you first saw this book? A. In Mr. Van Amburgh's office on March 4th, 1917, at 17 Hicks Street.

1386 Q. What did you say to him and what occurred, what conversation was had? A. I asked Mr. Van Amburgh for his book, the books of the organization, and he produced several books, which he gave us, in the shape of ledgers, and we asked for the books of the association, the minutes of the meeting of the Board of Directors, and before he had a chance to look for it, Mr. McKenna, my assistant, handed me the book and said, "Here is the book that was in Mr. Van Amburgh's safe, I think that is the book you want." I showed it to the District Attorney, who was present, and said, "Is that the book we want?" and he said, "Yes."

Q. I ask you if you saw Exhibit 31 for identifica-

tion at any time? A. Yes, this is a loose sheet that was in the book at the time we got it.

Mr. Oeland: I offer in evidence certain extracts from the minute book on page 140. I offer in evidence extract from the minutes book of the Board of Directors of W. B. & T. society, extracts beginning on page 140 and 148, just extracts from it. I wish to ask, as I read, to just call the jury's attention to Exhibit 31 as being the original of what is copied in the minute book, identified as being the original of what is in the book.

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Mr. Sparks: I object, not properly authenticated, and immaterial.

The Court: Not properly authenticated? The evidence shows the book came from a proper custody of the person who delivered it.

Mr. Oeland: It is the minute book of the society.

Mr. Sparks: Loose leaf ledger with a copy of the excerpts and the signatures copied out on the machine. It don't purport to be the original at all.

Mr. Oeland: It purports to be the original minutes of the organization. I might explain to the Court there is an approval of the proceedings by these various men who signed this mimeograph, which is copied verbatim into the book.

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The Court: What is the resolution?

Mr. Oeland: The vital parts I want to call the Court's attention to are the organization of the meeting and the men who were present, and then the recital by Mr. Rutherford as to what had been done about "The Fin-

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ished Mystery," and who aided in its preparation.

The Court: Does it show who was present at the meeting?

Mr. Oeland: Yes, and then an approval which is copied into the minutes, signed by the members present, and this is copied in the minutes, and I want to show the approval of Mac-Millian, of what transpired at the meeting.

The Court: As I recall the witness testified that it came from a safe in the office?

Mr. Oeland: Yes, handed to him by some one, Van Amburgh.

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The Court: Mr. Van Amburgh said it was the record of the association?

Mr. Oeland: It purports to be.

The Court: That tends to show that the record came from the proper custody, and the evidence tends to show it was an official record of the organization, and the testimony tends to show the signatures of at least two of the three—

Mr. Oeland: Those are the only two I am concerned about.

The Court: I am inclined to admit this under the objections of the defendants and subject to their exceptions.

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Mr. Oeland: I might make a further statement: Assuming it was not found to be the minute book of the association, I think it is perfectly admissible; assume it was not. Here is a declaration made by Rutherford of something and written approval of it by these defendants, because they refer to the statements he made and approved them.

The Court: If it turns out to be an act of one of the defendants it becomes evidence against all, so we will admit it.

Mr. Oeland: I will read from the book purporting to be the minute book of the Watch Tower Bible & Tract Society, at page 140, the following: "Brooklyn, N. Y., Bethel Home, July 17th, 1917—9:30 A. M. Pursuant to the call of the President, J. F. Rutherford, for a meeting of the board of directors of the Watch Tower Bible & Tract Society, to be held at the Bethel Home, 9:30 A. M., July 17th, the following members were present: Brothers J. F. Rutherford, A. N. Pierson, W. E. Van Amburgh, A. H. MacMillan and George H. Fisher, W. E. Spill and J. A. Bohnet. The president called the meeting to order. Prayer by Brother Van Amburgh."

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Then on page 142: "July 17th, 1917. Mr. J. F. Rutherford, President of the Watch Tower Bible & Tract Society, Brooklyn, N. Y. Dear Brother: I hereby accept the appointment as a member of the Board of Directors of the Watch Tower Bible & Tract Society. A. H. MacMillan."

Then on page 143: "The President made the following report"—

Mr. Sparks: May I call the Court's attention to the acceptance here, it is not in the handwriting of Mr. MacMillan.

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Mr. Oeland: This is all typewritten in here.

Mr. Sparks: That is my objection, it is all a typewritten, without an original signature.

The Court: I understand that.

Mr. Oeland: The president made the following report as to some of his activities as president and manager: 'Dear Brethren: It seems due to you that I make a report of my activities since the management of the society has been placed in my hands.' " Then we skip

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matters that are not germane, down to page 145: " 'As is well known to all Congress passed a conscription act, and considerable time has been required by me in the examination of this act, and in giving advice to inquiring brethren throughout the country. I made a visit to the War Department at Washington, and after a personal interview gained favorable concessions for the society and our brethren. My personal correspondence has been greatly increased because of the conscription act, and for several months has required the services of two stenographers.

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" 'Being a lawyer by profession, and glad to serve the brethren in any way I can, I have had considerable work in advising the brethren regarding their personal affairs, in all parts of the country and abroad.

" 'I have held at least two meetings every Sunday, and sometimes three, as well as speaking at other times, as opportunity has afforded.

" 'In general I have endeavored to acquaint myself with every part of the work in this country and in foreign lands, and to do everything in my power to aid the same.

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" 'It seemed good to the Lord to have the seventh volume prepared, and two faithful brethren, Brothers Woodworth and Fisher, did this work, other faithful ones assisting in the mechanical part of it. I have read considerable of the manuscript and printer's proof while traveling on the trains. When the time came for publishing this work we were in the midst of much opposition; and, knowing that to consult the opposers would hinder the publishing of the volume, I took counsel with Brothers Van Amburgh, MacMillan, Martin and Hudg-

ings, of the office force. After praying over the matter the Lord seemed to open the way so that the opposition might not interfere. A certain brother, without solicitation, placed in my hands the necessary money with which this book should be published, and the Lord's favor seeming to be upon it and the publication was undertaken; and now, by the Lord's grace, we have had a small bit in aiding other brethren throughout the world, by placing with them this last heritage of our beloved Brother and Pastor to the dear Israel of God."

At page 146: "'Humbly submitted, (Signed) J. F. Rutherford.'" 1400

"Following this, a resolution was presented to the board. Owing to the lateness of the hour, adjournment was then taken until 8:00 P. M.

"8:00 P. M.—Continued adjourned meeting with all the members present. Further discussion of the resolution followed. The following resolution was then offered:

"'Whereas, the President of the Watch Tower Bible and Tract Society has this day made a statement in writing before the undersigned, who are now members of the Board of Directors, setting forth his acts done and performed since the death of Brother Russell, and his election as president; 1401

"'And whereas, it is well known that opposition has arisen against the president;'"—

I state to the jury I am now reading what is copied into the minutes as a correct copy of Exhibit 31, in the minutes. It is signed in typewriting. I am reading the extracts from Exhibit 31.

Mr. Sparks: There is no claim that the

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word "President" means President Wilson, but the president of the society?

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Mr. Oeland: Of course. "Now, therefore, be it resolved, that we, the undersigned members of the Board of Directors, do hereby express our hearty approval of the acts and conduct of our president and general manager and executive officer of the Watch Tower Bible and Tract Society, which duties we desire him to continue; and we take this occasion to express our utmost confidence in him as a brother and servant in the Lord, and to commend him, with loving prayers and assurances of our support, to all who love our dear Pastor Russell and who believe that he was sent to be the guide of the Church to the end of her way; "

Then it is signed: "Brooklyn, New York, July 17, 1917. A. N. Pierson, W. E. Spill, W. E. Van Amburgh, J. A. Bohmet, A. H. MacMillan, Geo. H. Fisher"

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"It was moved by Brother Spill and seconded by Brother Bohmet that the resolution be adopted and spread upon the minutes of the society. Motion carried and resolution signed by all the members of the board. Adjournment was then taken until 8:00 A. M., July 18th."

July 18th is a further proceeding, and that is signed by the signature identified as Mr. Van Amburgh's.

THE GOVERNMENT RESTS.

Mr. Fuller: In going over the minutes of the testimony, I fail to find what I had assumed was there. I think your Honor will recall it. I asked your Honor, early in the trial, a few minutes after we started, if it was understood,

to save objections, that general objections on the part of each of the defendants should be accepted as to all. I don't find that reported in the minutes. I remember that.

The Court: Yes. We will call the attention of the stenographer who was in attendance at the time of the trial commenced to it. He may have overlooked it in transcribing it. That should be attended to, so that the record will be straight, and as we thoroughly understood each other.

Mr. Oeland: In view of that testimony I ask your Honor to overrule the motions made for here is a letter showing they consulted with him in the publication of the book, received his aid, and there is a written statement by Mac-Millan.

Mr. Sparks: They didn't say what you say.

The Court: Since the motion yesterday I have conferred with one of the local judges as to the practice in this court, and he didn't quite agree.

Mr. Oeland: Did we lead your Honor wrong?

The Court: He didn't quite agree with counsel. Judge Chatfield understands the practice to be the same as I understand it to be.

Mr. Oeland: I suppose we were speaking of the State Court.

The Court: He says he understands the practice to be as the Court stated yesterday. Bearing that in mind, as well as the evidence that has been introduced this morning, I will deny the motion for the present, at least as to Mr. MacMillan, and he has an exception to this ruling.

Mr. Sparks: All the motions made yesterday are considered made at this time, at the close of the Government's case.

The Court: In view of the fact that the Court allowed the Government to withdraw its rest, you may enter now that all the motions made by the defendants yesterday are to be considered and construed as if made at this time, after the Government has made its final rest, and all the rulings of the Court; so that what was done yesterday will be treated as re-entered at this time. All the exceptions yesterday to be considered as being taken at this time. That takes care of the situation satisfactorily, I think. You may proceed with the defense.

(Mr. Fuller opened the case to the jury.)

GEORGE H. FISHER, one of the defendants, being called as a witness in behalf of the defendants, and duly sworn, testified as follows:

Direct-examination by Mr. Sparks:

Q. You are one of the defendants in this action? A. Yes.

Q. Where were you born? A. Albany, N. Y.

Q. Of what parentage? A. My mother was born in this country immediately after her parents came from England; my father's people lived here since 1629.

Q. Did you have any early religious education? A. My father was a clergyman of the Episcopalian Church, and brought me up carefully in the teachings of that church, and a knowledge of the Bible. In my

early days I rather hoped to be a minister of that church.

Q. What religious studies or work did you do in the early part of your life? A. Well, my father ran a parish school; we studied the history of the Episcopalian Church, studied the Sunday School lessons, I read the Bible a good deal, over several times, because I was interested in it. That is about all I remember.

Q. Are you married? A. Yea.

Q. What family have you, if any? A. Just my wife.

Q. How long had you known Pastor Russell prior to his death? A. I met him first in 1897. 1412

Q. Did you become interested in him and his work? A. It was in 1897, in July, I first heard of Pastor Russell's work. One of his works was placed in my hand, the first of his books, and on reading it I believed it to be a true explanation of the Bible. The first work was known as "The Divine Plan of the Ages."

Q. Did you continue reading his works? A. Ever since, up to this time.

Q. That reading consisted of what? A. Reading—I took this attitude toward Pastor Russell. I was interested in the Bible more than the work of any man. I read his works as throwing light on the Bible. I checked up carefully every statement he made by the Bible, and satisfied myself that to the best of my knowledge, and belief and conviction, he was right, before I accepted it. I have accepted all of his ideas. 1413

Q. How early did you do that? A. Beginning July, 1897.

Q. In 1897, down to the time of his death, were you a member of the International Bible Students' Association. A. Beginning in July. I was in the Episcopal Church as a lay reader there and an organist, and it was a year and a half after before I definitely cut my relationship with that church. I was immersed and

became a member of the association in 1899, though I had believed the truth of it from 1897. I made my minister a promise that I would not make any change for a year and a half, and I kept the promise, as I try to keep all promises I make.

Q. What is the immersion, what is that ceremony?

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A. The immersion is a submersion of the believer in water. The person who immerses him—if you desire a description of the method—is the same as is done in any church where they have water immersions. They lay the person down, face up, until covered with the water. Then they lift him up again out of the water. That is understood to be a symbol of his consecration, the submission to the will of God. In another way it is considered a picture of his death to earthly things and his resurrection to a newness of life. There are certain questions asked the person before he can be immersed. The first question is concerning his belief in Christ, as his personal Redeemer. His belief in what the Bible teaches as the risen sacrifice of Christ, we understand the risen sacrifice of Christ as taken from the Greek to mean: Christ gave himself a corresponding price for all men that he bought us with his blood. We believe anyone that believes that he is a

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Christian to the extent of belief in that. The second question asked is if you have fully consecrated yourself to do the will of God, even though it leads you to death. As a person has to be consecrated to anything that happens, including death, in faithful following of what he understands the Bible teaches as the will of God. The person who is to be immersed has to say yes to that.

Mr. Oeland: We are not objecting to the creed or anything like it. We stated that in the opening of the case. I can't see how it is material.

The Court: I can't see how so much detail 1417
is necessary.

Mr. Sparks: I think we have to have the doctrine of this belief to show intent. We are to determine whether in putting out this book there was a conspiracy to impede the Government in its war work. I cannot see how a jury with a very small smattering of the belief of these men can reach a decision of what they believe unless they have an outline, or a fairly good outline of what they believe or did.

The Court: This seems to me giving all the minuteness and detail.

Mr. Fuller: If your Honor please the effort 1418
was made, I think by the prosecution in the People's case, to suggest that an entrance into this organization did not mean anything at all, to the extent that there was any such suggestion, there is a good amount of detail in the character of the symbolic ceremony attached to the entrance.

Mr. Sparks: Mr. Oeland claimed we had no creed, no organization, no membership, nothing.

Mr. Oeland: I asked if there was any membership or record kept. I had no idea that we were to attack the relevancy of their belief. I 1419
think I made that clear to the jury, so that this trial would not be prolonged.

The Court: Of course, a person may have several intentions at the same time. In order to find these defendants guilty the jury must find they intended to spread insubordination, disloyalty and refusal of duty, or to obstruct the recruiting and enlistment service. Now, of course, if they intended to do that they violated the law, notwithstanding in what they did they

may have believed they were serving God at the same time. I think it is material to allow them to explain their religious belief. That would have a bearing on what their real intention was. How far, or how much detail that will take, is discretionary with the Court, but I intend to be very liberal in the exercise of that discretion, and would ask if you purpose to have each defendant describe all the theories of the doctrine?

Mr. Fuller: No.

1421

The Court: I am inclined to allow you to continue.

Q. Have you finished with that ceremony you have just described? A. Only one thing to add there would be this, that is, a symbol of the consecration of the heart which the person has arrived at before he symbolizes it in water.

Q. When were you consecrated? A. I was consecrated in 1897, about May, before I heard of Pastor Russell I made a full consecration to the Lord before I heard of this.

Q. You were immersed in this association in 1899? A. In 1899, yes, after careful deliberation.

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Q. Are you an ordained minister of that society? A. Yes.

Q. How is that title conferred upon you by the association? A. In our association ordination is accomplished by the vote of the members. It is an ordination continuous from year to year, and without it a person is not allowed to speak, or preach in this organization.

Q. How long have you been teaching or preaching in this organization? A. To the best of my knowledge and belief it was about 1901 or 1902.

Q. And where? A. In Scranton, Pennsylvania and

in other places that I might happen to go to from time to time.

Q. You have been living in Scranton how long? A. I have been in Scranton since 1895.

Q. Have you been engaged in business? A. I have been engaged in business all of the time, some work there, our society those who are amongst our teachers in most cases earn their living by other work than what most ministers or organizations earn their living at. We work at jobs the same as other people and do our teachings evenings or Sundays.

Q. For the services you render as a minister do you receive compensation? A. None whatever. 1424

Q. During the past fifteen or twenty years, how many hours a day do you think you would average in your services for this work?

Mr. Oeland: How is that material?

The Court: I will allow it.

A. I might ask you to make that question a little plainer; you mean the actual teaching work?

Q. I mean the general time you have given up for the work of this association, whether it is teaching, preaching or expounding your doctrine to the people?

A. Including study? 1425

Q. Yes. A. I suppose I have averaged one hour a day steady for nearly twenty years. I have taught on the average of once or twice an hour or two hours every Sunday. I have had one hour, once or twice in the evenings nearly every week. That is not true in the earlier years as much as in later years.

Q. Your lay work, what does that consist of? A. How far back do you want me to go?

Q. Say ten or fifteen years? A. Before I went to Scranton, I was the principal of a high school just outside of Philadelphia. The first year in Scranton

1426

I was the teacher in mathematics and physics in a college preparatory school. Next year organizing businesses and selling them. There are some business men there in business yet, men I have started in different ways. In 1897 I became connected with the International Correspondence School as an assistant advertising manager and have held various positions there up to a position called statistician, but which amounted to an assistant to the president. This position closed May 15th of this year. My relations have always been connected with the executives of the business.

1427

Q. Did you come in close personal contact with Pastor Russell or have any conversation with him, or talk, with reference to the seventh volume, the volume which had not been published at the time of his death, October 31st, 1916? A. A number of times when I questioned about the interpretation of Revelations, I asked Pastor Russell what he thought, how he would interpret them. His answer always was that will be explained in the seventh volume. He also told me, during the latter years of his life, he had never prepared anything other than the things written from time to time on Revelations or on Ezekial.

1428

Q. How long had the members of the International Bible Students' Association been looking for the seventh volume? A. They were looking for it in 1897, and have been looking for it ever since. How much before that, I couldn't say.

Q. Have you heard Pastor Russell say that the work would be completed in time? A. I have always heard him say he expected to write a seventh volume of his series of "Studies from the Scriptures." I heard him say that more than once.

Q. He died October 31, 1916? A. Yes, 1916.

Q. And since his death has it been a matter of some discussion among the various members of the International Bible Students' Association as to whether the seventh volume ever would be written? A. No; before Pastor Russel died he said someone else would write it. That was on his death bed he made that statement; he didn't specify who.

Q. Was there any meeting of the International Bible Students' Association at which any person was delegated to write the seventh volume? A. There is one word I don't catch. "Any ending?"

Q. Any meeting? A. I was not connected with the society in Brooklyn, merely with the church in Scranton. I understand there was a meeting of the executive committee.

1430

Mr. Oeland: Certainly he cannot tell—

The Court: This must be hearsay. It is hearsay about what Pastor Russell said.

Q. Did you have any connection with the organization, that is, the corporation, or membership corporation, of Pennsylvania or Brooklyn, New York State, on the 15th day of June, 1917? A. I would have to refresh my memory by reference to a note book to see whether I did or not. May I do so?

1431

The Court: You may. You don't need permission. You have the right to refer to anything you have at hand to refresh your recollection.

Q. Make that date on the 1st of January, 1917? A. No, I had no connection at all, then, with the society.

Q. In the latter part of November, 1916, did you meet with Mr. Woodworth and another person, at which a discussion of the writing of the seventh volume came up? A. I did.

1432

George H. Fisher

Q. Where was that? A. That was in my home in Scranton, Pennsylvania.

Q. The third member at that meeting was a lady who was interested in the International Bible Students' Association? A. Yes, it was—do you wish her name?

Q. Was that an informal discussion or was there some policy adopted at that meeting? A. It was not a meeting. This lady was visiting at our home in Scranton as our guest, and Mr. Woodworth happened to be in, and was talking about it, saying he would consider it the greatest honor of his life—

1433

Mr. Oeland: Isn't this hearsay?

The Witness: I heard him say this.

Mr. Sparks: It was their discussion at the inception of the book. Where could there be hearsay? You couldn't have hearsay against the Government on the inception of the book.

The Court: What is the purpose?

Mr. Sparks: To show the inception, how the book came into being in the first instance. The Government claims this book is part of a conspiracy; we are going to show how, when and where this book came into being.

1434

The Court: You may do that, but the conversation they had between themselves.

Mr. Sparks: They can give conversations. If it is charged against us we wrote the book under the conspiracy, the conversation that was had at the time the book was formulated, or decided to go ahead with the book, would negative any conspiracy.

Mr. Oeland: Our contention is after the 15th of July its inception might be lawful or unlawful. Its circulation after that would be unlawful.

Mr. Sparks: The mere fact that the Government—the mere fact that the agreement was continued after the 15th of June would not make it unlawful under the conspiracy charge at all. There would be an agreement at that particular date—

1435

Mr. Oeland: There would be an agreement at that particular date to continue the book for an illegal purpose. I think we discussed that question.

The Court: You said something about a case that held that. I think that was in chambers. I did not make a memorandum of the case. If you tell me what case it is, I will look at it.

1436

Mr. Sparks: People against Flack, 126 N. Y.

Mr. Oeland: Each act is a renewal after that. It was made unlawful after July 15th, and it becomes an unlawful contract under the conspiracy.

Mr. Sparks: It might be unlawful to sell the book; it would not be an unlawful conspiracy.

Mr. Fuller: I think Mr. Oeland has his eye too close to the page. We are engaged now in showing that the origin of this enterprise was innocent. As it develops it keeps on showing it was innocent of any purpose. In order that the jury may not draw an inference that it was not as innocent as we contend, we want them to have all the facts in their minds that tend to act as an explanation of the book, and in order to give the fullness of that we have to go to the inception.

1437

The Court: I am inclined to take your view of that, as to the admissibility of the evidence;

1438

would it be admissible for these parties to come here and relate all the conversation they had between themselves? These conversations would not be admissible.

1439

Mr. Fuller: Here are two of the alleged conspirators that have a conversation at the outset. If that conversation was held, so far as the initiation of that enterprise is concerned, each is relying on it at that time. We will assume that one of these alleged coconspirators did something wrong at his end, and intended to do it. Certainly the conversation he had would be material as what the other coconspirator did. To get the picture properly presented we give that conversation. It does not mean we are going to give a conversation every time they met on the street.

The Court: Is what one of them said evidence in their favor?

Mr. Oeland: Say what he did.

Mr. Sparks: May I suggest this?

The Court: Certainly you can; you are invited.

1440

Mr. Sparks: The only way the jury can reach a conclusion of whether two or more persons entered into a conspiracy is either to hear the conversation which forms the conspiracy, or to look at their acts, the things they have done. They have to do it either way, one way or the other. It has got to be proven by acts or conversations or agreements. While it might be very boring to have all these men give all their entire words from the time they got up to the time of going to bed and have them recorded and read to the jury, the best way would be to read it over and find out whether or not it seemed they conspired to do

an unlawful act. You wouldn't have an agreement except by spoken or written words. If every word of these defendants from the 15th of June to the 16th of May were recorded, there would be no better evidence in the world for the jury to determine and act upon than those exact words.

1441

The Court: That is not quite the notion I had in mind. A person comes into a meeting or conference and makes certain statements. Is it competent for this witness to relate what he said?

Mr. Sparks: In a case of this kind I cannot see how you are going to arrive at the purpose of writing the book except what was said at that time.

1442

The Court: Suppose a person says we did not have any agreement here whatever; we did not have any agreement to violate any law whatever; anything we do is perfectly legal, honest, just, righteous; is that evidence?

Mr. Sparks: That would be evidence, probably, in view of their subsequent acts, the thing they did, if it was illegal.

The Court: Was illegal?

Mr. Sparks: If two people come together and by formulating evidence, making evidence of what they are going to do is not illegal, it is a correct inference, viewed in the light of the acts they subsequently performed, that they knew it to be illegal.

1443

Mr. Fuller: Suppose Mr. Sparks said to me: "Let us go to Chicago next week" and do a certain thing, see some ball game. I said: "All right." We go to Chicago. When in Chicago, he leaves me to go to the ball game and sets fire to a building. We come to New

1444

George H. Fisher

York. We are both subsequently indicted for having gone to Chicago to set fire to a building. Isn't it competent for me, on the witness stand, to say: "Mr. Sparks asked me to go to Chicago to view a baseball game, not to set a fire"?

The Court: The witness is relating something that somebody else said. We will resolve these things in favor of the defendants. We will continue with the answer.

1445

Q. Proceed. A. Mr. Woodworth considered it would be the greatest privilege that might come to him ever if he might be privileged to write at least part of that seventh volume. We regard those books—his reason for that, if I may state—

The Court: State what he said; not what you think he believed.

The Witness: He said that, and he said he thought I knew a good deal about Ezekial. A few days later this friend who was visiting us asked me to explain the first chapter of Ezekial.

The Court: This friend is not one of the defendants?

1446

The Witness: No.

The Court: Don't—I don't see what she said could possibly be material.

Mr. Sparks: I think it is all in the same line. No matter what was said between any individuals, whether defendants or otherwise, you can get their intent from what they said at that time, so far as those two particular individuals are concerned. If their conversation is so clear that there could have been no intent at that time, that is, at its inception, the book was perfectly proper.

The Court: There is no contention here that it was improper at the time it was written, or originally printed; there is no claim to that effect. Why should we spend or offer much time in putting in evidence here regarding a matter the Government does not claim was illegal?

1447

Mr. Oeland: We make no claim that the making of the book was illegal until after the 15th of June, 1917. Our contention is this—

The Court: Let me say to you, gentlemen, after the passage of this Act of Congress, June 15th, that its sale, distribution, then became illegal.

1448

Mr. Oeland: I place myself squarely before the Court. An agreement which might be lawful before the passage might be in operation, or a working agreement between individuals before the passage of the Act; then, if that law passed making it a crime, if they work under that agreement, the agreement is unlawful, and a conspiracy is nothing but an unlawful agreement.

Mr. Sparks: What is the agreement before the law was passed?

Mr. Oeland: It makes no difference. An agreement becomes unlawful after the law is passed. An agreement, when the law stamps it as unlawful, it then becomes an unlawful agreement and conspiracy is nothing but an unlawful agreement to carry on the work.

1449

The Court: The rule is broader. An unlawful agreement, it may be a lawful agreement, to do a lawful thing in an unlawful way. It may be a lawful agreement; it may be an agreement to do an unlawful thing.

Mr. Oeland: Or it may be an unlawful agreement carried out by lawful means.

1450

The Court: We must keep in mind, notwithstanding the claim of the Government, that this book was not unlawful when it was originally printed.

Mr. Oeland: I would not say that, because it was not printed until after the 30th of June.

The Court: When it was originally written.

Mr. Oeland: I don't think that is fair, because some pages were written after June 15th, but I mean the bulk of the preparation.

1451

The Court: Notwithstanding the Government does not claim that this writing of the book, or anything the defendants did prior to June 15th was unlawful or wrong, no complaint made against them prior to June 15th, I think the Court can take a broad view of the situation and allow the defendants to show that they were innocent of that claim, the defendants ought not to be foreclosed from having the jury listen to the facts in the case. I have always thought that was the better doctrine, because notwithstanding the Government did not claim it was unlawful, some jurymen might, until he heard it explained, be reluctant to take that position. Sometimes parties come to court and make an admission. I have known

1452

Courts to give an opinion and say this is admitted and exclude the evidence. I think that does wrong a great many times. It is more advantageous to have the jury hear the evidence than to take an admission. So I should be inclined to allow you to put in evidence that the defendants' intention was honest, lawful, right. Now, then, how far you want to go with that is something we ought not to have any disagreement about. Although I should

be inclined to allow you to go far, what some friend said— 1453

Mr. Sparks: That was just a preliminary. Probably in another question we will get to the defendant. May I ask the Government, through the Court, if it is their position when page 247 was written that did not refer in any way to American patriotism, but became a reference to it after our entrance in the war? It is material. If the Government make any claim "Come out of the mouth of the dragon" did not refer to America's participation, the United States' participation in the war, we could shorten up the trial. 1454

Mr. Oeland: We contend it did.

The Court: There will be no purpose to shorten up the trial. Just a word on that. There will be no purpose to shorten this trial up either the Government or the defendant. It makes no difference if it takes three days, three weeks, or three months.

Mr. Oeland: We make no concession as he asks.

Mr. Sparks: Then you can see how material it is for us to prove the writing of the book. Then there must have been a vicious purpose of writing that paragraph prior to our entry in the war. That eliminates their claim that the book was all right. 1455

Mr. Oeland: It might be vicious without being unlawful.

The Court: You would hardly claim that what some friend said that was not one of the defendants would be material, of course, would you?

Mr. Sparks: I should think this, if I read an article—

1456

The Court: Just on this question, you would hardly claim that, would you? He started to say what some friend told him.

Mr. Sparks: These three friends were together and making suggestions about the writing of the book. I think whether Fischer or Woodworth said anything, or whether this stranger, not a defendant, said anything with reference to the book to show it was innocent, would be as material as what Fisher or Woodworth said. The mere fact that they are defendants does not make the conversation, or throw any light on the original work.

1457

The Court: What a person says is one way of finding out what is in his mind, intention. How could it be material to show the intention of this friend?

Mr. Sparks: That is not purpose.

The Court: What he said will not tend to show the witness's mind.

Mr. Sparks: If the witness and the defendant made some reply to that, they got their intention of what the witness said.

The Court: Why don't you ask what the intentions were instead of asking what was said? Then, if an issue is raised, we will go into the other.

1458

Mr. Sparks: I think the jury gets a better idea of a man's intention on a given date by what he said, not by what he said after he was indicted. No person who is indicted who was asked did you intend to commit this offense, would say yes; naturally the answer you would get would be no, when he had no interest to serve, there was no indictment at hand, no motive in falsifying what he said then, his answer is a thousand times better evidence

what he said then, than what he said on the witness stand.

The Court: Take the answer.

The Witness: I was requested.

The Court: What he said?

The Witness: What I said or the friend said?

The Court: The friend.

The Witness: The friend asked me to explain the first chapter of Ezekial. It was something I had never understood before, but by reference to something Pastor Russell had written, which I had not noticed before, I was able to explain that whole chapter substantially as written, and to something I understand had never been understood before since the Book of Ezekial was written.

1460

(The Court, at 1 P. M., adjourned to 2:15 P. M.)

2:15

After recess.

GEORGE H. FISHER, resumed the stand.

1461

Direct-examination resumed by Mr. Sparks:

Q. At that meeting, at which you and Mr. Woodworth and this other friend were present, did you finally decide upon anything? A. No; we did not decide on anything.

Q. Did you subsequently receive any word from Mr. Woodworth with reference to your work on Ezekiel? A. I received word from Mr. Woodworth that he had a letter from somebody that the executive committee of the Watch Tower Bible & Tract Society had given him permission to prepare anything we might be able to, and submit it without any prom-

ises as to publication or use of any part of it. I have written a great many magazine articles, and this was submitted on the same basis as when I submitted articles for magazines for publication. They might be used or wholly rejected.

Q. Was it on that understanding you started to work on the Book of Ezekiel? A. It was.

Q. When did you start work on that? A. The latter part of December, 1917, perhaps a week or so before Christmas.

1463 Q. You mean 1916, don't you? A. I mean 1916; yes.

Q. Were you continuously at work on your part of this book from that date down to a given date? A. Yes, with such minor interruptions as might come from incidental sickness or little absences.

Q. When did you finish your manuscript? A. I will have to refer to my notes for that. I kept no record of dates, but it was about June 25, 1917.

1464 Q. I call your attention to page 406 of "The Finished Mystery," chapter 7, 19th verse, which the Government has indicated as objectionable matter in this book. Did you write the explanation of that chapter, of that paragraph? A. I wrote all but the last sentence in that paragraph.

Q. You mean "they demanded his life and took it"? A. The one you refer to is page 406?

Q. There is a hint here that conscription will meet with opposition? A. Yes.

Q. You wrote all about that up to the bold face type? A. Yes.

Q. Will you tell the Court and jury when you wrote that particular paragraph, an explanation of the 14th Verse, Chapter 7 of Ezekiel? A. That was written as nearly as I can tell about January or February, 1917.

Q. As it is printed in the finished book, is it the

same now as when you wrote it and finished? A. It is the same with the addition of the last sentence.

Q. That is, your part is exactly the same as when you wrote it in January or February, 1917? A. Yes.

Q. Take the 19th Verse of Chapter 7, at the bottom of page 406. I asked you if all the small type, or explanation, of that chapter and verse of the Bible is your work? A. It is my work in a sense it is partly compiled and partly original writing. We, in writing this book, felt obligated wherever Pastor Russell had written anything on a given verse to incorporate what he had in order to have the book as much as possible his writing. This paragraph is divided into two parts, the first part of which, ending with the word "starving," was taken from the 45th page of his 4th volume known as "Armageddon" or "The Day of Vengeance."

1466

Q. Will you turn to the 4th volume on which that is quoted and taken and read it? A. This was—in many cases we had to condense. We would have had a book altogether too large, and this is what we read in volume 4, page 45. The sense is the same: "But as we come closer and closer to the great crises of this 'evil day' it will doubtless be manifest to those who view the situation from the standpoint of 'the sure word of prophecy,' that 'even if there be cases where principle is not involved, it will be the part of wisdom to withdraw from the various social and financial bondages which must inevitably succumb to the ravages of world wide revolution and anarchy. In that time (and, bear in mind, it will probably be within the next few years) financial institutions, including insurance companies and beneficial societies will go down, and "Treasures" in them will prove utterly worthless. These caves and rocks of the mountains will not furnish the desired protection from the wrath of this "evil day," when the great waves of popular dis-

1467

content are lashing and foaming against the mountains' (kingdoms—Rev. 6:15-17; Psa. 46:3), and the time will come when men shall cast their silver into the streets, and their gold shall be as though it were unclean (margin); their silver and their gold shall not be able to deliver them in the day of the wrath of the Lord. They shall not (with their wealth) be able to satisfy their souls, neither (to) fill their bowels: Because it was the stumbling block of their iniquity' (Ezek. 7:19. Compare also verses 12-18, 25-27). Thus will the Lord make a man's life more precious than fine gold, even the golden wedge of Ophir.—Isa. 13:12." This was a condensation of that paragraph.

1469

Q. That is what is written in "The Finished Mystery," a condensation of what you read, which is found in the fourth volume of the "Studies of the Scriptures," if that is correct? A. Yes.

Q. Do you know how long the fourth volume of "Studies in the Scriptures" has been in existence? A. The fourth volume was copyrighted 1897.

Q. Now, the balance of that paragraph, page 407, was taken from what? A. Was taken from the "Watch Tower," 1898, page 331.

1470

Q. Is that a condensation of something or quotation? A. That is also a condensation.

Q. Will you read what the original is?

Mr. Oeland: I object to that, if your Honor please. He condensed it and put it out as his work. Where he got it from seems to be going far afield.

The Court: I think we will have to be liberal in this matter.

Mr. Sparks: May we proceed?

The Court: Yes.

A. "The accounts which here"—this is a cable report from Berlin.

The Court: What is this?

The Witness: This is a cable report headlined "Berlin," it follows one from London on page 331 of the "Watch Tower," from which this article in "The Finished Mystery" was condensed.

Mr. Ocland: What page of "The Finished Mystery" are you referring to now?

The Witness: I might say, Mr. Sparks, my best recollection is I did not write this sentence here referred to.

Mr. Ocland: Which?

The Witness: In the seventh volume beginning "There was" and ending "took it." 1472

Q. Part of that paragraph that you have read was written by you when? A. In February or March, 1917.

Q. And as it is written there is it in the same shape as when you wrote it in March or February? A. Yea.

Q. Turn to page 469. Did you write the explanation of the 31st verse, chapter 21, of Ezekiel? A. Yea.

Q. As it appears in "The Finished Mystery"? A. Yea.

Q. Is that an original writing or quotation, or condensation from other writings? A. That is an original writing. 1473

Q. When did you write that? A. This was written about March, 1917, in March, 1917.

Q. And as printed in "The Finished Mystery," is it the same now as when you originally wrote it in your manuscript for the book? A. Yea.

Q. I am referring to your original manuscript when I asked you the previous questions? A. Yea.

Q. It has not been changed since? A. No, sir.

Q. And those are all the objectionable passages in this book that the Government has indicated, are

they, Mr. Fisher, so far as your work is concerned?
A. Yea.

Q. At the time you started on this work had you seen Mr. Rutherford in reference to undertaking this work? A. No, sir.

Q. Had you seen Mr. Van Amburgh? A. No, sir.

Q. Mr. Martin? A. No, sir.

Q. Mr. Robison? A. No, sir.

Q. Mr. DeCecca? A. No, sir.

Q. Or Mr. McMillan? A. No, sir.

1475 Q. And from the time you started work down to the time the book itself was finished and published and on the market, did you see any one of the defendants here, with the exception of Woodworth, in reference to this book? A. I consulted with no one about it. I saw Judge Rutherford once or twice incidently.

Q. In reference to this book? A. No, going through Scranton he stopped off a train while the train was stopped and then got on again. We saw him at the station.

Q. Was there any talk or discussion with reference to the purpose of this book? A. No; there was not. The book was mentioned because we all three were interested in it.

1476 Q. Can you fix the date of that time when you met him at the station? A. I cannot.

Q. Approximately? I do not mean the exact date? A. No; I cannot even do that. I have anything to associate it with and have no recollection of even the approximate date.

Q. Was it prior to July 6th, 1917? I fix that date because that is the day of the declaration of war, or can you fix it by reference to the fact you were still working on the manuscript? A. I was still working on the manuscript at the time.

Q. Was there any suggestion by Mr. Rutherford

as to what you should put in this book or as to how you should interpret the various chapters of Ezekiel?

A. None whatever.

Q. Do you know where Mr. Rutherford was going on that occasion? A. He was going some point west of Scranton on the Lakawanna Railroad. He had an appointment to speak somewhere the next day. It was on a Saturday.

Q. I show you Government's Exhibit 30 in evidence, and ask you if ever you saw that paper, or a translation of it? A. No, sir. I might say that I cannot tell what it says, and don't know whether I saw a translation. 1478

Q. You have seen attached to the indictment herein what purports to be a translation of that document? A. I do not read Italian, I cannot tell what that is.

Q. My question: Have you seen a translation of what purports to be a translation in the indictment in this case? A. May I look at it again?

Q. That is the Cuminetti letter? A. If that is the Cuminetti letter, I have seen what purports to be a translation of it.

Q. Where did you see that? A. In the "Watch Tower," but the date escapes me. I can find it by reference possibly. My memorandum is December 15, 1916. That is the date on which it was published in the "Watch Tower." 1479

Q. Is that your best recollection as to where you read a translation of that exhibit? A. The "Watch Tower" is the only place I ever read a translation of it, until I saw it in the indictment.

Q. Did you have any part in the publication of that in the "Watch Tower"? A. No, sir.

Q. Did you have anything to do with the distribution, if there was any distribution, of the translations of that letter? A. No, sir.

Q. I show you Government's Exhibit 29 in evi-

dence, and ask you if you ever saw that letter? A. No, sir.

Q. When did you first see or learn of the existence of that letter? A. In the indictment, within a couple of weeks, in the indictment.

Q. That is within a couple of weeks after this indictment? A. Within a couple of weeks of this date now, when I saw the indictment.

Q. That is the first you knew of its existence? A. Yes.

1481

Q. I show you Government's Exhibit 28, and ask you whether you ever saw that letter, or exhibit, or before? A. No, sir.

Q. When did you first learn of the existence of that letter? A. I am not sure. If it is indictment, I learned of it first in the indictment. If this is one of the exhibits presented in court, not in the indictment, I first learned of it when presented in court, within a few days back from now.

Q. I show you Government's Exhibit 27 in evidence, and ask you whether you ever saw a copy or the original of that letter? A. No, sir.

1482

Q. When for the first time did you learn of the existence of that exhibit or letter? A. Either in the indictment or when it was presented in court, within a day or two.

Q. Were you ever consulted in reference to the distribution of any copies of the original of that exhibit? A. No, sir.

Q. Was the distribution ever mentioned to you by any person? A. No, sir.

Q. And especially the defendants in this action? A. No, sir.

Q. I show you "Watch Tower" dated March 1, 1917, which is a reprint from the December, 1916, Cuminetti letter, and ask you whether you saw that letter reprinted in the "Watch Tower" for the second time on that date?

Mr. Sparks: That is not in evidence, he failed to connect it.

Mr. Oeland: We will.

Mr. Sparks: I will let my question stand on the statement that the Government will try to connect it at some future time.

The Court: It may be done.

A. To the best of my knowledge or belief I did read it again, but I base that entirely on the fact that I read every issue of the "Watch Tower" definitely, but not from a definite recollection of reading it the second time.

1484

Q. Your answer is based on the fact that you do read all the "Watch Tower" as you get it? A. Yes.

Q. You were not connected in anyway with the "Watch Tower" on March 1, 1917? A. No, sir.

Q. You had nothing to do with its publication? A. No, sir.

Q. And you contributed no part of that issue? A. No, sir.

Q. I show you Government's Exhibit 26b in evidence, and ask you whether you ever saw the original or a copy of the original of that letter? A. No, sir.

Q. When did you learn for the first time of the existence of the copy or original of that letter? A. In the indictment. I believe this is one of the letters in the indictment.

1485

Q. Did you ever hear of that letter before? A. No, sir.

Q. Did any person ever consult you with reference to the distribution of copies of the original of that letter? A. No, sir.

Q. Or did you, or did you not, know directly or indirectly that any person was sending out letters similar to that? A. No, sir.

Q. I show you Government's Exhibit 26a in evi-

1486

dence, and ask you if you ever saw that letter? A. No, sir.

Q. You learned of it for the first time when? A. Unless this is one of the letters in the indictment, I learned of it first when it was presented in this court. If it is one of the letters presented in the indictment, I learned of it first in the indictment.

Q. You never knew of the existence of that letter before the indictment? A. No, sir.

1487

Q. And during none of the periods when these letters were written were you working in the Tabernacle or in Brooklyn in the society's work? A. No, sir.

Q. I show you Government's Exhibit 25 in evidence, and ask you if you ever saw that original, or a copy of that? A. No, sir.

Q. You learned of that for the first time when? A. Either in this court when submitted as evidence, or in the indictment, if it is one of the letters in the indictment.

Q. Has any person ever consulted you with reference to distributing copies of the letter of which this is a copy? A. No, sir.

1488

Q. Do you know directly or indirectly, from any information you obtained that such letters were being distributed? A. No, sir.

Q. I show you Exhibit 24 in evidence, and ask you if you ever saw the original of that or a copy of it? A. No, sir.

Q. And did you learn of the existence of that letter for the first time either by reading of the indictment or exhibits or schedules attached to it, or hearing it read in the court in the trial of this case? A. That is when I first learned of it.

Q. Do you know of any copies of that letter—did you know that any copies of that letter were being distributed by any person whatsoever? A. No, sir.

Q. Or had you been consulted with reference to its distribution? A. No, sir.

Q. I show you Government's Exhibit 23 in evidence, and ask you whether you knew that on or about October 4th, 1917, this order was given for the publication of the "Bible Students Monthly," volume 8, No. 4? A. No, sir.

Q. Did any person ever consult you in reference to the giving of that order? A. No, sir.

Q. Were you in Brooklyn at the time it was given? A. No, sir.

Q. Prior to that order being offered in evidence here yesterday, did you know of the existence of any such order? A. No, sir. 1490

Q. Exhibit 22, Government's Exhibit 22 for identification, is the same as Government's Exhibit 30 in evidence, I presume. That is the Italian copy of the Cuminetti. I assume your answer is the same in reference to that? A. Yes.

The Court: Show him quite a number of exhibits at once and save time.

Mr. Sparks: I can't, if the Court please, these are going along so rapidly, and there are so few of them, I think it would probably save time if I could do it this way. 1491

Q. Government's Exhibit 21a for identification is what?

Mr. Cochran: It is marked in evidence.

Q. I show you Government's Exhibit 21a, a letter dated January 30, 1918, signed W. E. Drain, and a carbon copy of a letter dated February 15, 1918, Government's Exhibit 21b, addressed to W. E. Drain, and ask you whether you ever saw the letter signed "Drain," or the carbon copy, or the copy marked Exhibit 21b? A. No, sir.

Q. Did you know of the receipt of that letter or letters of similar character? A. No, sir; I never heard of them, nor knew anything about them.

Q. Had you been consulted by any person connected with the society in reference to what position the society would take in reference to these letters? A. No, sir.

Q. You had no knowledge one way or the other such letters were coming into the Brooklyn Tabernacle? A. No, sir.

1493 Q. Did you have any knowledge of the form of the letter sent in reply? A. No, sir.

Q. Had you ever discussed directly or indirectly with any person or persons connected with the society whether the International Bible Students Association, Watch Tower Bible & Tract Society or the People's Pulpit Association—what attitude the society should take with reference to conscientious objectors? A. No, sir.

Q. And if any advice was being given to these persons who wrote to the society in Brooklyn, you were not aware of it? A. No, sir.

1494 Q. I show you Government's Exhibits 20a and 20b, and Exhibit 19, Government's Exhibit 18, and Exhibit 17a and Exhibit 17b, and Exhibit 16a and Exhibit 16b, and Exhibit 15a and Exhibit 15b, all of similar purport as the last letter, the last exhibit that was shown you, and ask whether you ever saw those letters, or the letters or a copy of the letters which is attached? A. No, sir, none of them.

Q. Do you make the answer to these exhibits as you made to my general question, as you did to the previous exhibit of like purport? A. Yes; the same answer.

Q. I show you Government's Exhibit 14, being "Bible Students' Monthly" and ask you if you ever saw a copy of that exhibit? A. I don't know. The

society got out a good many issues of the "Bible Students' Monthly." There are some issues which I saw and some which I did not see. I have no recollection of having seen this.

Q. I call your attention to an article on the third page, or maybe the second, of that exhibit, in reference to "A Good Soldier," and ask you whether that article was ever called to your attention? A. No, sir.

Q. The testimony on the part of the Government is to the effect that a reprint of that "Bible Students Monthly," being volume 8, No. 4, was reprinted in October, 1917. I ask you whether you had any knowledge, directly or indirectly, that such reprint had been ordered? A. No, sir.

1496

Q. I ask you whether at the time the volume—or if you looked up to see when the original of that "Bible Students Monthly" was printed? A. No, sir; I have not.

Q. So you personally have no knowledge as to when that "Bible Students Monthly" was printed? A. No, sir.

Q. Did you take any part in the composition of any article in that "Bible Students Monthly? A. No, sir.

Q. And if any copies of that exhibit were distributed, was it distributed without your knowledge? A. Yes.

1497

Q. Have you ever been consulted with reference to the article which the Government has read in evidence from that Exhibit in the "Bible Students Monthly"? A. No, sir.

Q. I am calling your attention specifically to the quotation from Jack London's description of "A Good Soldier"? A. No, sir; I never heard of it.

Q. You never knew of its existence until read in court the other day? A. No, sir.

Q. You said "no, sir," you mean yes? A. I mean

I had no knowledge of its existence until here in court the other day.

Q. I show you Government's Exhibit 11, and ask you whether you ever saw that letter before? A. No, sir.

Q. When did you first learn of its existence? A. When presented in court here. I don't think this is one of those presented in the indictment.

Q. I think that is correct, were you ever consulted by any person with reference to the contents of that letter or the reply that was to be sent to the letter of which it is an answer? A. No, sir.

1499

The Court: Do you know about any of these letters, or circular letters, that were sent out?

The Witness: You mean those about the draft, your Honor.

The Court: Yea.

The Witness: No, sir; I do not.

The Court: Can't we dispose of that?

Mr. Sparks: We already covered those; I offered those in a bunch.

The Court: Did you have to do with any of the actions of the society except what you say as to writing a portion of the book?

1500

The Witness: I had to do with the society after July 19, 1917, when I became a director of the society, but not before that. That is the first connection I had with the society. I give you that, because I understand the prosecution has that evidence.

Q. I show you Government's Exhibit 4 in evidence, purporting to be a check, dated December 10th, 1917, signed William E. Van Amburgh, and ask you if you knew of the issuance of that check? A. No, sir; I did not.

The Court: Let me see it.

Q. How do you know, Mr. Fisher, that "The Finished Mystery" was copyrighted? A. Only by hearsay; I don't know directly.

Q. Do you know by hearsay that you were described in the application for the copyright as one of the compilers of the book? A. I don't know that even by hearsay.

Q. You had nothing to do with the copyrighting of the book? A. No, sir.

Q. I show you Government's Exhibit No. 2a, 2b, 2c, 2d, 2e, 2f, 2g, 2h, i and j, purporting to be proposals from W. B. Conkey & Company to the Watch Tower Bible & Tract Society, and which have been written on the last page thereof, "Accepted by the Watch Tower Bible & Tract Society," and ask you if you knew of the giving of those various orders? A. No, sir.

1502

Q. I understand, Mr. Fisher, that on the 17th day of July, 1917, you became a director of the Watch Tower Bible & Tract Society, or the People's Pulpit Association? A. The Watch Tower Bible & Tract Society. That is the date to the best of my knowledge.

Q. This is a Pennsylvania corporation? A. I wouldn't say that date. A few days before was the date on which I became a director. It is a Pennsylvania corporation.

1503

Q. You are not a director of the People's Pulpit Association? A. No, sir.

Q. The membership corporation in whose name the seventh volume was published and copyrighted was the People's Pulpit Association? A. Yes.

Q. Have you, as a director of the Watch Tower Bible & Tract Society, been consulted in reference to the publication of orders for the seventh volume? A. My recollection is not clear on that. I would have to have it refreshed by the minutes of the meetings in order to know positively.

1504

George H. Fisher

Q. What is your best recollection at the present time? A. My best recollection is that the matter was mentioned informally at one meeting.

1505

Q. Mr. Fisher, you are charged in the first count of this indictment with conspiring between the 1st day of April, 1917, to the date of the filing of the indictment by the Grand Jury, with unlawfully and feloniously conspiring, combining, confederating and agreeing together with the defendants named in the indictment and with other persons to the Grand Jurors unknown, to commit a certain offense against the United States of America, to wit, the offense of unlawfully, wilfully and feloniously causing insubordination, disloyalty and refusal of duty in the military and naval forces of the United States when the United States was at war to the injury of the military and naval forces of the United States. Did you ever enter into any such conspiracy as described in what I have just read with these defendants or any other person? A. No, sir.

Mr. Oeland: I object to that as calling for a conclusion.

The Court: The Court will allow it.

1506

Q. Whether by act or suggestion coming to you or suggestions emanating from you to them? A. No.

Q. Has there ever been any meeting between you and any of the other defendants or other persons, wherein it was suggested you in any way interfere with the naval or military forces of the United States? A. No, sir.

Q. Have you consciously by any act or words, between the 6th day of April, 1917, to the date of this indictment, the date it was handed down, done anything to interfere with the military or naval forces of the United States? A. No, sir; I wouldn't do it.

Q. Are you conscious of having done anything which might be construed as tending to interfere with the military or naval forces of the United States?

A. No, sir.

Q. In the overt act charged in the first count of this indictment it is alleged that you, as one of the conspirators described in the first count, that for the purpose of affecting the object of such conspirator you compiled and caused to be compiled certain reports, and did add to them certain original writings. Did you ever do any act such as therein provided, to effect the object of any conspiracy? A. No, sir. It is well-known that I wrote and compiled a portion of the seventh volume. There is no intent of that kind in any of those acts.

1508

Q. It is alleged in the second overt act that you published and caused to be published the said book entitled volume 7, "Bible Students," "The Finished Mystery." Did you have anything to do with the publication of that book? A. No, sir.

Q. That you caused the same to be copyrighted. You already answered that, that you did not? A. No, sir.

Q. The fourth overt act charged in the indictment is that during the period named, from the 6th day of April, to the finding of the indictment in May, 1918, that you received a letter written in Italian from one Frank D'Onofrio, at that time a member of the military forces of the United States, addressed to the Watch Tower Bible & Tract Society, a copy of which is annexed to the indictment, and marked Schedule B. I ask you if, prior to the finding of this indictment, you ever heard of Frank D'Onofrio? A. No, sir.

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Q. Did you ever know of the existence of a letter purporting to have been written by the said Frank D'Onofrio? A. No, sir.

Q. Did you make or cause to be made a translation

of the said D'Onofrio letter from Italian into English?
A. No, sir.

Q. And in the exhibits which I have shown has been a copy of the alleged D'Onofrio letter, and I believe you answered to that, that you did not know of the existence of it, or that copies were made of it, until after this indictment was found. Did I so understand you? A. Yes, sir.

Q. And that is true and correct? A. Yes.

Q. Did you know prior to the finding of this indictment of the existence of a person by the name of Carmelo Nicita? A. No, sir.

Q. Or one Jerry DeCecca? A. No, sir.

Q. So up to the time of the finding of this indictment you did not know of the existence of either of these two persons? A. No, sir.

Q. Up to the time of the finding of this indictment did you know that Jerry DeCecca had sent copies of the D'Onofrio letter to the said Carmelo Nicita and Jerry DeCecca? A. No, sir.

Q. Prior to the finding of this indictment did you know that any copy had ever been made of the Cuminetti letter? A. No, sir.

Q. Except as it was published in the "Watch Tower"? A. As published, that is the only way I knew of it.

Q. Did you know that there was any distribution of the Cuminetti letter, if any such there was? A. No, sir.

Q. Did you know it had been reprinted in pamphlet form such as is shown in these exhibits? A. No, sir.

Q. You have read this indictment, Mr. Fisher? A. Yes, sir.

Q. It is alleged in the eighth overt act that you, as one of the conspirators had sent, or caused to be sent to one Jerry DeCecca, who was at that time a member of the military forces of the United States of America, at-

tached to Camp Devens, State of Massachusetts, certain letters, copies of which are annexed to the indictment and marked Schedule G. You have read all the letters attached to Schedule G, have you not? A. Yes.

Q. Did you know copies of those letters had been sent to Jerry DeCecca by any person? A. No, sir.

Q. Had you authorized the sending of said letters to Jerry DeCecca? A. No, sir.

Q. And you had not been consulted about the sending of such letters? A. No, sir.

Q. Do you know anything about the sending of the letters attached to Schedule H of the indictment to one Carmelo Nicita? A. No, sir. 1514

Q. Had you ever been consulted about the letters in Schedule I of the indictment which were sent to him? A. No, sir.

Q. Or had you been consulted with reference to the making of the copies of those letters? A. No, sir.

Q. Or any of them? A. No, sir.

Q. The second count of the indictment alleges that you, as one of the defendants conspired with the other defendants in this action, conspired to commit a certain offense against the United States, to wit, the offense of unlawfully, wilfully and feloniously obstructing the recruiting and enlisting service of the United States when the United States was at war, to the injury of that service and of the United States of America, and then it goes on to allege overt acts similar to those contained in the overt acts of count one of the indictment and which I have specifically referred to in my previous questions. How would you answer similar questions, if put to you, in reference to the various acts under count two of the indictment? A. I would answer them in the same way. 1515

Mr. Sparks: Will your Honor consider that general question to be sufficient to cover the

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George H. Fisher

various acts, if I omit to ask the specific question?

The Court: The Court will be quite willing to take that view of the situation if there is no objection by the Government.

Mr. Oeland: None whatever.

Mr. Sparks: So it will be considered as if he was asked specifically about the overt act alleged in count two?

The Court: I think the practice is to ask the witness if any knowledge concerning any of the allegations and the things alleged.

1517

Q. Have you done any act, in pursuance of a conspiracy, between these defendants or any other persons, in conjunction with them, to effect a conspiracy to commit the offense of unlawfully, feloniously obstructing the recruiting and enlisting service of the United States of America? A. No, sir.

Q. In the third count of this indictment you are accused of unlawfully, wilfully and feloniously attempting to cause insubordination, disloyalty, mutiny and the refusal of duty in the naval and military forces of the United States when the United States was at war, alleging the direct act of unlawfully, wilfully and feloniously attempting to do those things without conspiring. Have you ever done any act, unlawfully, wilfully and feloniously in an attempt to cause insubordination, disloyalty, mutiny and refusal of duty, in the military and naval forces of the United States when the United States was at war? A. No, sir, I would consider it wrong, improper to do so.

1518

Q. It is alleged you did these things through public speeches—

The Court: There is no claim of that on the part of the Government.

Mr. Sparks: In the fourth count.

The Court: All the evidence offered by the Government against this defendant consists of what he did in writing the book and what he did as a director, isn't it?

Mr. Oeland: Yes, selling the book also.

The Court: In writing the book, the printing and selling of it would follow that.

Q. When did you first hear of the overt act of the Espionage Act, Mr. Fisher?

Mr. Oeland: I object; wholly irrelevant.

The Court: I hardly think we can go into that. The law is he is bound to hear of it and know of it. In other words, he is bound to know this law just as soon as it becomes a law; that is so well settled that you probably don't make any claim to the contrary in that regard.

Mr. Fuller: Yes. My contention is so far as the charge of conspiracy is concerned, the defendants entered into a joint agreement, of concerted effort, at a time when that act is not forbidden by the statute. The passage of a statute forbidding the act upon which concert has been agreed, unless the defendants are shown to have knowledge of the statute—

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The Court: You maintain the conspirators can go along with the program after the passage of the statute and be exempt from liability?

Mr. Fuller: They cannot be adjudged to have committed the offense of conspiracy. The point we make is the difference between a conviction of conspiracy to do an act that has been wrongful—

The Court: Let us send for that case.

Mr. Oeland: In examining that authority, will your Honor bear in mind, in considering this question, under this particular statute conspiracy itself is made a substantive offense.

1522

The Court: There is another statute which makes it substantive.

Mr. Oeland: Under Section 4 of this act itself.

The Court: Section 4 is silent as to overt acts?

Mr. Oeland: No, it says if a company by some act in pursuance of the object sought.

The Court: That would make it the same from a legal point, the same as the old statute. Read Section 4.

(Mr. Sparks reads Section 4.)

The Court: The book came in, Mr. Fuller.

1523

Mr. Sparks: The Syllabus, I presume your Honor will take that.

(Mr. Sparks reads beginning with the words "the mere fact," and ending with the words "criminal intent.")

The Court: That is an elementary rule. That has always been in force. I agree with you on that.

Mr. Sparks: If they did not know of the existence of the Espionage Act, then there could be no criminal intent, because the law may presume that you know the law, but the law does not presume a criminal intent, if a person does not know of the law, itself.

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The Court: That is not the rule, that is, I never heard of any such doctrine as that before. I cannot subscribe to that.

Mr. Sparks: How can I have criminal intent, if I don't know of the existence of a law? I may be guilty of violating a statute where intent is not made a necessary element, but if intent is a necessary element of the crime, like grand larceny, we must prove intent, you must prove criminal intent, you may prove the exist-

ence of the law; but where intent is necessary, you have to prove the person intended to commit a crime, and if he can establish to the satisfaction of the Court and the jury that he did not know that it was a crime—

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The Court: That he was innocent?

Mr. Sparks: That he could have no criminal intent.

The Court: No, that is not the law, never was the law, and I trust it never shall be the law. This question is excluded, and each defendant can have an exception. It has always been the law of this nation, always been the common law of England, from which we take our laws, that a person charged with a crime is conclusively presumed to know the law. I have never read any different doctrine in the book, never heard of any different doctrine urged in court before.

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Mr. Sparks: I might take a book from this table, with the intent to take it away—if I make a claim of ownership there I must be shown to know that my claim of ownership was merely asserted for the purpose of getting a title to that book, and if you can't prove that my intent was to defraud or to deprive the true owner of the title of that book, you can't convict me. That is where the question of intent comes in. It is unlawful for me to take any book.

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The Court: You don't put in any issue of fact here—

Mr. Sparks: I think we do put in a question of fact, if the Court please. If this man did not know of the existence of the Espionage Act at a certain time when a certain act was taking place, innocent in itself—

The Court: It was not innocent in itself after the law was passed.

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Mr. Sparks: That is a question of fact. Your Honor, according to the theory that you have ruled here, is going to leave to the jury what the man's intent was in doing a certain thing. Now, if he didn't know and if they are convinced that he did not know of the existence of the Espionage Act, certainly that is going to have a very material bearing upon that question of intent, not only the conspiracy, but on the third and fourth counts because even in the third and fourth counts they have got to find intent.

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Mr. Fuller: Will your Honor let me read two cases upon that case?

The Court: Read all you desire to, I don't limit you to two cases.

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Mr. Fuller: The Court of Appeals, referring to a former judgment—the Court of Appeals reversed the judgment of conviction: "But a mere agreement between two or more persons to do an act innocent in itself, a criminal conspiracy—it is not enough that it appears that the act which was the object of the agreement was prohibited; and the federation must be corrupt. The agreement must have been entered into with a full purpose, as distinguished from a purpose simply to do an act prohibited in ignorance of the prohibition."

Now, in that case the jury came in and asked for further instructions with respect to criminal intent and the Court replied that criminal intent is the doing of an unlawful act intending to do it—

The Court: Yes, I used that case you refer to in defining criminal intent to a jury in that case tried in the Southern District, the United States against the Hamburg-American Line

and various officers of the Hamburg-American Line. That is not new doctrine.

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Mr. Fuller: The Court replied that a criminal intent is the doing of an unlawful act intending to do it. Now, this case proceeds, after further colloquy between the Court, the jury and counsel, the Court referring to what constitutes an agreement, said: "If he (the defendant) has no legal sense or is ignorant of the law, he is still guilty. If he does the unlawful act and intends to do such an act and is a sane man"—and to this exception was taken. This question made the question of guilt to depend solely upon the intentional doing of an unlawful act. So the substantial requirement was changed by the doctrine in the charge that although there was no intention on the part of the defendants to do anything wrong, if the acts done were within the Conspiracy Act and the intention was to do those acts, the defendants were guilty. For reasons heretofore stated this instruction was erroneous—

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The Court: You have not read anything that helps the witness on the stand, that he can say he did not know the law.

Mr. Fuller: All I have read is the fact that it was a very important question in that case as to whether at the time of the conspiracy he did know whether the act was or was not prohibited by statute, and we contend that it is needful that he disclose that fact in the trial of the case in order that that can be considered by the jury.

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The Court: That question was not up in that case.

Mr. Fuller: In this case the verdict was reversed by reason of an error in the charge to the jury.

1534

The Court: Do they hold there that a witness may take the stand and say he did not know the law for an excuse?

Mr. Fuller: No, but it says very plainly that if a witness doesn't know the law, that that excuses him from the vice of criminal intent in the formation of the conspiracy.

The Court: The general rule is that you must have a criminal intent. Now, if these defendants did things that caused insubordination, disloyalty or refusal of duty, if they did what they intended to do knowingly, feloniously, and I believe the word wilfully is in the statute, wilfully, that is purposely, intentionally, as contradistinguished from inadvertently or accidentally, the criminal intent is made out.

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The Court: I will exclude this question, if he knew when the Act of July 15 was passed.

Exceptions to each defendant.

Mr. Sparks: Or knew of the existence of that act.

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The Court: Yes. And I rule that the defendant on the stand is conclusively presumed to know of this act from the time it was approved by the President of the United States, which was on the 15th day of June, 1917. He cannot be here and say he did not know of it. Now, that is a general rule of law and it has been for some time, and this case is no exception to it. While, as matter of fact, probably no one knows all the law, nevertheless, when charged with a crime we are all presumed to know all the law. You cannot be here and say you do not know it. It would be impossible with the burden on the Government to show that a man knew about the law—

Mr. Sparks: I think your Honor has stated a general proposition, but I don't believe that you added an additional and necessary element to your statement, which is that before the Government can have a conviction for a violation of any law in which intent is a necessary element, whether in a conspiracy case or any other case where intent is made a part of the crime, they must prove the criminal intent and that you cannot prove a criminal intent provided the person is ignorant of the law itself. I think it is a necessary corollary that you must know of a fact before you can have a criminal intent to do it.

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The Court: No, the authorities are all the other way.

Mr. Sparks: How could I have a criminal intent if I did not know that a thing was wrong?

The Court: I will define to the jury what intent is necessary for them to find here in order to find a verdict of guilty. They must find that the defendants had a felonious intent and you may pass up any requests you like to make upon that subject matter.

1539

Mr. Fuller: I think probably the other exceptions cover it, but would your Honor give us an exception to that?

The Court: Yes, an exception to each defendant as to all the Court has said.

By Mr. Sparks:

Q. Mr. Fisher, when did you first learn that any criticism was being made of "The Finished Mystery"?

Objected to as immaterial.

The Court: What differences does it make

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as to whether he ever heard any criticism or not?

Mr. Sparks: It goes to his good faith as to what he did when he did hear of it.

The Court: That would be no justification whatever he did, no matter how sorry he was or how he might feel about it, that would be no justification for what he had done before.

Mr. Sparks: But we are dealing with the question of intent.

The Court: That would be proper on the question of intent, but not on the question of guilt or innocence.

1541

Mr. Sparks: On the question of whether he committed a crime, what he did when it was first brought to his attention that a particular act was claimed to be a crime.

The Court: What do you want to show that he did?

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Mr. Sparks: I expect to prove that just as soon as any question was raised, so far as this book was concerned, he endeavored to find out wherein it was subject to any criticism and if a person looks for information as to his wrongful act, or alleged wrongful act, and he can't get any information on that point, or if he does get information on that point and he follows a certain course, that shows—does there upon his criminal intent, especially on a conspiracy charge.

The Court: I think that would be material on the question of what the sentence should be if he were convicted.

Mr. Sparks: I think it is material on intent, and that is what we are offering it for.

Mr. Oeland: We object to it. That is just another way of proving he did not know the

law, and when he did learn of it and knew he was doing wrong said he was sorry for it. I think it is as objectionable as the other.

Mr. Fuller: Suppose it is brought to the attention of A that certain portions of the contents of a book which it is said might have a reprehensible result; immediately A ceases the circulation of the book, tears out those contents. I think the question has a bearing in a probative way on the question of whether A, in the original circulation of the book, intended to produce a reprehensible effect. It seems to me it has. 1544

The Court: He may testify how long he continued to have it printed and sold and any changes he made in it, but his criticism which he heard of it, I don't think is material.

Mr. Sparks: We intend to show that just as soon as he heard of a rumor, not that it was unlawful, not that it was violative of any statute, but that the Government was objecting to it, he endeavored to find out wherein it was objectionable. Certainly that goes to his motive and intent in doing what the Government claims he did— 1545

The Court: He may show what he did, but I hardly think the criticism that he heard of it is material. You may show what he did.

Mr. Sparks: I can only frame a question that I don't think is objectionable.

The Court: I will allow you to use leading questions.

Q. Sometime in March, 1917, I understand, did you hear some rumor that there was something objectionable in "The Finished Mystery"?

Objected to.

1546

George H. Fisher

Q. (Continued.) And about March 4, 1918, in pursuance of that rumor, did you do anything to ascertain what the criticism of the book was? A. Yes, sir.

Q. What was that? A. The date I am not certain of. It was the date when arrests were made in Scranton, Pennsylvania, partly through Mr. McMillan, and I inquired of Mr. McHenry, who was with the Government, a special agent, if I recollect correctly, what parts of the book were objected to, and he told me what they were.

1547

Mr. Oeland: We object to all these statements.

By the Court:

Q. You heard someone was arrested for selling the book? A. Yes, sir.

Q. What did you do then; did you stop their being sold, stop the sale? A. I found out what parts were objectionable from Mr. McHenry—

Q. Did you stop the sale? A. Yes, sir; came to Brooklyn, and the sale of the book was stopped the next day.

1548 By Mr. Sparks:

Q. That is, after ascertaining from Mr. McHenry that there were certain parts of the book objectionable to the Government, on the following day you came to Brooklyn, to the headquarters of the International Bible Students' Association from whom these books were being shipped out, and had the distribution, whether the sale or giving away, stopped; is that correct? A. Yes, sir; except in one particular. I am not sure that it was the very next day, but it was done at the earliest possible moment.

By the Court:

Q. How long was that? A. Within a day or two, as soon as I could get down to New York.

By Mr. Sparks:

Q. That was not done on the theory that you were conscious of having violated any law, but simply because it had been intimated to you that the Government objected to certain passages in the book?

Objected to. Objection overruled.

A. Yes, sir.

1550

Q. So far as you know, and so far as your consent to the distribution of the books—from that time down to the present time, no copies of "The Finished Mystery" have been circulated or sold? A. No, sir; I have ever since that been against any circulation.

Q. Until you had some ruling of the Government as to what they objected to—

Mr. Oeland: That is objected to.

The Court: We are liable to get a ruling here in this case pretty quick.

Mr. Sparks: My point in that is that the witness, until he can ascertain what part of the book is objectionable to the Government, or what part of the book a jury trying a case could hold was objectionable—that they were willing to eliminate the publication of the book as a whole, but that doesn't mean—

1551

The Court: You have shown that he did stop the sale. What their intentions are to do in the future is immaterial.

By Mr. Sparks:

Q. So far as your consent or knowledge goes, the entire circulation of "The Finished Mystery" has been dropped in toto? A. Yes, sir.

1552

George H. Fisher

By the Court:

Q. How many copies had been sold when you took this action to stop the sale? A. I was not familiar with the number of sold, your Honor.

Q. Have some information, haven't you, about it? A. I was not familiar with the circulation figures of the book. The last figures I had were about 200—in the 200,000, but I understand that quite a number more had been sold, possibly as much as 400,000. I did not hear any figures for some time after that.

1553 By Mr. Sparks:

Q. Mr. Fisher, you had no part in the distribution of this book prior to March 1st, 1918, that is, you were not located here? A. Only the copies which I had at Scranton of which I gave or sold about 30 copies.

Q. That is, personal copies which you had? A. Personal copies; yes, sir.

Q. That were given to you as complimentary books? A. Yes, sir.

Q. How many did you have altogether? A. I was given 100 complimentary copies.

1554

Q. How did you dispose of those? A. I gave about 20 away to friends and sold about ten or a dozen to friends, mostly to friends, and the others I don't remember who they were sold to. The remaining copies, about 70, I could not make use of, disposal of, and I took them down to our church and left them there, and I presume they were used by the members of the church, because I asked for some of them later on and were told there was none there.

CROSS-EXAMINATION by Mr. Oeland:

Q. Mr. Fisher, you did write a part of the book?
A. Yes, sir.

Q. You knew Mr. Woodworth was writing the other portions of the book? A. Yes, sir.

Q. Where did you live and where did he live?

A. We both lived in Scranton, Pennsylvania.

Q. How far apart? A. I lived in the 300 block.

Q. How much of a distance? A. I should judge a couple of miles; I don't know the exact distance.

Q. Did you both belong to the same organization down there; what do you call them? A. Ecclesias

Q. You both belonged to the same organization? A. Yes, sir.

Q. How often did you see him in the preparation of this book? A. I would see him perhaps once a week. 1556

Q. Did you talk over the preparation of the work, what you were doing and what he was doing? A. Not particularly. If I found anything that I thought was remarkable or unusual, I would mention it to him.

Q. And he, in turn, would mention it to you? A. Yes, sir. Our visits were very brief. He was very busy and would drop in for a few minutes, perhaps five minutes at a time.

Q. From time to time you consulted with each other about the manuscript which you were preparing? A. Only in the manner described. 1557

Q. You were expounding Ezekiel and he was expounding the Revelation? A. Yes, sir.

Q. That is, you would take a portion of the Bible from Ezekiel and then you would construe what that meant or what it ought to mean? A. Yes, sir; I would try to.

Q. Did I understand you to say that it was the first time that it had ever been properly translated? You said that was the first time it was ever properly translated or properly expounded? A. To the best of my knowledge and belief.

Q. That is, so far as you know? A. Yes, sir.

Q. Other eminent scholars have written about the first chapter of Ezekiel, haven't they? A. Yes, sir.

Q. Your opinion is they were all wrong? A. No, sir.

Q. Can you tell us what you said about the first chapter of Ezekiel? A. To the best of my knowledge and belief my statement was in effect that it was the first time that they had been properly interpreted.

1559

Q. That was quite an occurrence to be the first man that had ever properly interpreted the first chapter of Ezekiel. Didn't you go and talk to Mr. Woodworth about that? A. Yes, sir.

Q. And he agreed that that was the correct interpretation? A. Yes, sir.

Q. And he agreed with you that was the first time it had ever been correctly interpreted? A. I will have to have my memory refreshed before I can say definitely.

Q. How do you know that you did correctly interpret it? A. It is a matter of belief, Judge.

Q. That is your opinion? A. My belief; yes, sir; and the belief of the Bible Students generally.

1560

Q. You don't know what they all believe, do you? A. Not all of them; those that I have seen.

Q. When did you turn over your finished manuscript? A. I will give you the dates. I have to refresh my memory (referring to memorandum). I wrote the pages 367 to 485—pages 519 to 568, I began those on December 11, 1916, and ended those on April 1st, 1917. 486 to 518 were done between April 1st, 1917, and May 15, 1917, and pages 569 to 592 were done between May 15, and June 25, 1917.

Q. You did do some work on it as late as June

25, 1917? A. Yes, sir; the last chapter, the chapter on the temple.

Q. In other words, you did compile some part of the book after June 15, 1917? A. Yes, sir.

Q. Did you consult with Woodworth after June 15, 1917? A. Yes, sir.

Q. Was he working on his work then? A. No, sir.

Q. Had he finished his part? A. He said he had finished it.

Q. You knew, of course, that the manuscript that you were preparing, if it was acceptable to the management of The Watch Tower Bible & Tract Society, was to be published in book form? A. I had no assurance as to whether it would be accepted or not—

1562

Q. I ask you didn't you know that it was to be published in book form? I did not ask you if you knew it would be accepted. A. Will you repeat the question?

Q. When you were preparing, you understood that if your product and the product of Woodworth was acceptable to the Bible Society, that it would be published in book form? A. Yes, sir; parts of it combined with the work of other men; that was my understanding.

1563

Q. It turned out it was not combined with anybody's except Woodworth? A. That is the way it turned out.

Q. But you had a definite understanding that if it were acceptable it would be published in book form? A. No, sir; I did not.

Q. Did you expect that if it were published—that if it were satisfactory it would be published in book form? A. No, sir.

Q. What did you think they were going to do with it? A. I was directed to submit matter, and it might possibly be used.

Q. When did you learn that it was going to be used? A. When it went to the printer.

Q. When was that? A. I have not got the date of it.

Q. They have stated here, and I have not objected to that version of it, that the proof went to the printer on June 9, 1917. You say you did prepare some of it after June 15—as late as June 25? A. Yes, sir.

Q. So all of the book could not have gone to the printer on June 9? A. No, sir; it did not. All but the temple chapter was finished before then.

1565 Q. From whom did you learn that it was to be printed? A. From Mr. Woodworth, I think.

Q. After it was printed, what next did you hear of it? A. I received a copy of the book after it was printed.

Q. When did you receive that copy? A. Some-time in July.

Q. July, 1917? A. Yes, sir.

Q. Had you read any of Woodworth's part of it before you received a copy of the book, any of his proof—his preparation? A. I had read little portions of his manuscript.

1566 Q. How much of it? A. A few pages. My recollection is indefinite.

Q. No definite recollection? A. No.

Q. Did he submit part of it to you from time to time, or would you go over to his office and see it there? A. No; I think I never was at his house on the matter.

Q. Where would you see him? A. He would drop into my house for a few minutes, occasionally.

Q. He would bring you parts of it and ask your opinion on that? A. A few verses, perhaps.

Q. You say you received it some time in July? A. I think so. I have not got any memorandum as to the date.

Q. How many copies did you get then? A. One copy.

Q. What did you do with that? A. I kept that copy.

Q. You read it, didn't you? A. I think not. I read portions of it. I did not read the whole of it.

Q. Were you not interested enough in Woodworth's work and yours, as the product of both of your labors, to read the book at all? A. I was in a very much exhausted condition from the work I had done on it, and I did no reading particularly for some little time then. 1568

Q. But you did read it, didn't you? A. A portion of it. Not the whole book.

Q. You never read this book after you all had worked it out and prepared it? A. It was months before I read the portion prepared by Mr. Woodworth.

Q. You got a copy in July, 1917, and then the months would be August and September? A. Two or three or four months; I can't remember just when. I would tell you if I knew.

Q. You did read the entire book? A. Yes, sir; I did. 1569

Q. The parts prepared by you and the parts prepared by Woodworth? A. Yes, sir.

Q. And you read the entire book in 1917? A. Yes, sir.

Q. And you knew at the time when you read it that it was being widely distributed? A. I had hearsay knowledge to that effect that it was.

Q. And you knew in the corporation from what you had heard that it was a book that people call a good seller? A. We were not thinking of it in that way.

Q. Whatever way you were thinking about it, you knew it was being sold and distributed all over the United States? A. We had that impression; yes, sir.

Q. And you had that impression at the time you were reading the book, the work that Woodworth had done and the work that you had done? A. Yes, sir.

1571

Q. Didn't you get any communication from Ruth-
erford telling you what a great success your work had
been? A. Not to my recollection; not to the best
of my knowledge and belief.

Q. You were naturally a little proud of the results,
weren't you? A. No pride in connection with it.

Q. After you had read completely the book, you
learned after that that it was being widely distributed?
A. Yes, sir.

Q. And that reissues were being made of the book?
A. By hearsay I knew that new editions were being
made.

Q. And you heard that those new editions were
selling? A. Yes, sir.

1572

Q. There was no restriction attempted to be placed
by you on the parties to whom it was to be sold?
A. No, sir.

Q. When did you get these 100 volumes? A. It
might have been three weeks or a month later. To
the best of my knowledge and belief, it was at least
that much after the publication of the book.

Q. A month or three weeks? A. At least that.

Q. What did you do with the 100 volumes? A. I
have just stated—

Q. You sold some? A. About a dozen copies.

Q. And you gave away some? A. About twenty
copies.

Q. And then the balance you left with the church
or Ecclesias for general distribution? A. I left

them down there for their use, if they wished to make any use of them at all.

Q. Were you paid anything for your services by The Watch Tower Bible & Tract Society in producing this book? A. No, sir.

Q. Did not you get some stock in The Watch Tower Bible & Tract Society? A. Stock was transferred to my name.

Q. How much? A. I think \$500 of stock. May I explain what that means?

Q. Did you get a check for \$500? A. No, sir.

Q. Did you get any cash at all? A. No, sir.

1574

Q. Did you get any promise of any payment of cash? A. No, sir; not at all. It was not done on that basis.

Q. You got a membership in the Peoples' Pulpit Association? A. Yes, sir.

Q. That was worth how much? A. That was worth nothing whatever to me.

Q. Wasn't it rated at about a thousand dollars?

Mr. Sparks: That is objected to as a conclusion.

The Court: That may be answered. That is a very proper question on cross-examination.

1575

Q. Didn't you know that at that time stock in the People's Pulpit Association was rated at a thousand dollars? A. This stock was transferred to me, but the transfer of this stock would leave an impression in the minds of the jury, unless they knew what that meant, because there was no value attached as far as I was concerned.

Q. I ask you if you don't know that that stock was considered worth in the market about a thousand dollars? A. No, sir.

1576

George H. Fisher

Mr. Sparks: That is objected to as having no foundation in fact on the evidence.

The Court: It will be admitted. If he don't know, he may say so.

Q. Were you not present at a meeting where The Watch Tower Bible & Tract Society transferred a thousand dollars to the People's Pulpit Association, both for the benefit of you and Mr. Woodworth?

A. May I ask the date of the meeting, Mr. Oeland?

1577

Q. The 2nd of October, 1917. A. It would be a matter where my recollection would have to be refreshed by the minutes of the meeting. I was not present at all of the meetings of the directors, but I would have to be sure it was a meeting at which I was present before I could answer definitely.

Q. Were you not present on October 2nd, 1917, when this following resolution was passed— A. I could not tell without refreshing my memory from the minutes whether I was present.

1578

Q. I will read it to you (reading): "Now, therefore, resolved, that the president of The Watch Tower Bible & Tract Society be and he hereby is empowered, authorized and instructed by this board to designate the following persons for membership in the People's Pulpit Association, and that the treasurer be directed to credit the People's Pulpit Association on account the sum of One thousand dollars for the membership of each of said persons upon their acceptance of the offer to become members"—then follow the names of the proposed persons, G. H. Fisher and C. J. Woodworth, W. E. Spill, and a lot of others. Does that refresh your recollection? A. I don't remember whether I was present or not. If you consult the minutes you will see if I was listed as present.

Q. (Reading.) "Upon a regular meeting of the

Board of Directors of The Watch Tower Bible & Tract Society, held at 2509 Perrysville Avenue, Northside, Pittsburgh, Pa., on the 2nd of October, 1917, in pursuance to the previous adjournment and the call of the meeting at this place. There were present the following members of the board: Brother Van Amburgh, Brother Fisher, Brother Spill, Brother McMillan and Brother Bohnec and Brother Rutherford." A. I was present; yes, sir. That transfer was for this purpose. I understood that I was wanted in the People's Pulpit Association to be of help in connection with the association, and no one could be a member in that without having a thousand dollars credited to him, and there was an exchange of account between The Watch Tower Bible & Tract Society, and this stock was placed to my credit. The stock amounts to this: Anybody who made a contribution of a thousand dollars to this association was credited as having that much stock. But the money was spent in the work of the People's Pulpit Association and had absolutely no value whatever. It was a book transfer in order to give me a membership in the association so as to have me connected with the management of it in some way.

1580

Q. Didn't you get, in addition to that, the \$500 of stock of The Watch Tower Bible & Tract Society?

1581

A. That was a transaction of precisely the same nature.

Q. Whatever it be, you got the right to vote and to be represented on both of those boards to the extent of \$500 on The Watch Tower Bible & Tract Society and a thousand dollars in the People's Pulpit Association? A. Yes, sir; in the Watch Tower I had the same right if I only had \$10. It amounted to the same thing. They wished me to help them with the work of the society and I was glad to be of service in that way.

Q. If you had one share of stock you had one vote, and if you had 500 shares you had more than one vote? A. As a member I would have one vote, but as a director I would have one vote no matter what the amount of stock was.

Q. As a member you would have one vote, but 500 votes with 500 shares? A. Yes, sir—50 shares.

Q. But as a member of the board you only had one vote? A. Yes, sir.

1583 Q. Then you became connected with The Watch Tower Bible & Tract Society as a director on July 17, 1917? A. On or about that date.

Q. The minutes of July 17, 1917, show you were present and participated in the meeting and you would not complain if they were not correct? A. No, sir.

Q. And on that date you, as a director, signed a statement which was to be sent out—I hand you Exhibit 31 and ask you if that is a reprint or facsimile of your original signature at the bottom there (showing witness paper)? A. Yes, sir; it is.

Q. And at the same time McMillan signed it? A. Yes, sir.

Q. And Mr. Van Amburgh? A. Yes, sir.

1584 Q. It appears in the minute book you accepted the directorship in the association on July 14th? A. I was a little uncertain of the dates. I had nothing to refresh my memory with for that purpose.

Q. You were present at the meeting of the directors on July 17, when Mr. Rutherford made this statement: "It seemed good to the Lord to have the seventh volume prepared and the two faithful brethren, Brother Woodworth and Fisher did the work." Other faithful ones assisting in the mechanical part of it. Do you know just what mechanical part of it he referred to there? A. Never discussed that particular part.

Q. (Reading.) "Having read considerable of the

manuscript and printer's proof while traveling on the trains and when the time came for publishing this work and knowing that the officers would hinder the publishing of the volume, I took counsel with Brothers Van Amburgh, McMillan, Martin, Hudgings of the office force"—did you hear that statement made?

A. I heard that read at the time.

Q. It was a written statement? A. Typewritten.

Q. That is the signature I had you identify where you sent out a circular approving that written statement? A. Yes, sir.

Q. Who read the statement at the meeting? A. 1586
My recollection would have to be refreshed on that. I can only make a presumption as to who it was.

Q. Your presumption would be that it was Mr. Rutherford? A. Either the president or the secretary.

By the Court:

Q. Who was the secretary? A. Mr. Van Amburgh.

Q. What was Mr. McMillan's official position? A. He was a director of The Watch Tower Bible & Tract Society.

Q. Vice president? A. No, sir. 1587

By Mr. Oeland:

Q. After July 14, 1917, you remained a member of the directorship or a director from July 14, 1917, to the present time, of The Watch Tower Bible & Tract Society? A. Yes, sir.

Q. And you were also associated in some capacity with the People's Pulpit Association? A. As a member of the association.

Q. That is the reason this thousand dollars was transferred to you, to make you a member? A. Yes, sir; that was the reason.

Q. There was another organization, what was that—the International Bible Students' Association? You were a member of that, too? A. No, not to my knowledge.

Q. That is an English corporation, is it not? A. Yes, sir.

Q. Did you join that at the same time you joined these others? A. No, sir.

Q. Did not join that organization at all? A. Not to my knowledge.

1589

Q. As a director or as a composer of the book did you have anything to say as to how it should be copyrighted or when it was to be copyrighted? A. I was not a director at that time, Mr. Oeland.

Q. Did you say you were not a member of the International Bible Students' Association? A. When you say the International Bible Students' Association as a church, it doesn't mean the same as the International Bible Students' Corporation in England—that is a legal corporation of the same name in England. It is what we call a church in this country.

Q. Do you call it the International Bible Students' Association? A. That is what it is called; yes, sir.

1590

Q. It is not organized—no corporate organization at all—I mean the church? A. It is; it is a legal organization everywhere. Each organization is duly organized but not as a corporation.

Q. What is the difference between it and the corporation of the International Bible Students' Association? A. It would be the same difference existing between the Congregational Church and the Congregational Publishing House—one is a church and the other is a corporation for business purposes, for carrying on the collective business of all the churches.

Q. The Watch Tower Bible & Tract Society is the parent organization of all these corporations? A. It

is the corporation which was organized in the State of Pennsylvania to do business in that state—originally.

Q. Is it the parent concern of these other two corporations? A. May I ask you what you mean by parent concern?

Q. What I mean is that it furnishes the money and gets the money—whatever money comes in goes to The Watch Tower Bible & Tract Society and whatever money goes out is paid out by them? A. The money is contributed to The Watch Tower Bible & Tract Society, as I understand it; yes, sir.

1592

Q. You stated that you were a director. Did you attend the meetings from time to time? A. As often as I could.

Q. Of the directors? A. Yes, sir.

Q. When you came here you went to the Bethel Home and to the Tabernacle? A. Yes, sir; I would go to the Bethel Home where there would be meetings of the directors and I might have time to drop in and visit and say: "How do you do?" to some of those working down there.

Q. You knew they were doing a great deal of printing and distributing of circulars? A. I knew they were and knew they had been for years.

1593

Q. You knew they were circulating what is known as The Watch Tower Bible & Tract Society— A. Yes, sir; I knew that.

Q. That pamphlet? A. Yes, sir.

Q. And you were also made an editor of that organ, were you not? A. Yes, sir.

Q. When was that? A. Sometime in September or October, 1917. That date would have to be refreshed in my memory for me to be sure.

Q. What do you understand an editor was to do? A. One who would prepare articles to be submitted

1594

Mark J. Edgar

and those which were approved by three editors would be published.

Q. You also passed upon literature that might be sent in from other people that wanted things published by The Watch Tower Bible & Tract Society?

A. As a rule; yes, sir.

Q. I mean the Watch Tower—I keep confusing the corporation name with the pamphlet. A. Yes, sir; I understand. If three editors passed on an article, it might be published.

Q. There were five editors after you became an editor? A. I would have to refresh my memory on that. I will consult a copy here. If this is a copy of the date when I was on the board (referring to paper). This is 1898. It would not help me out. Possibly you have an issue there which would give it—

Mr. Sparks: May I interrupt the witness's cross-examination at this point? There is a witness from Scranton, a character witness for Mr. Fisher, and a rather busy man, and he says it would be a great inconvenience for him if he has to stay over.

The Court: You may call him, certainly.

1596

MARK J. EDGAR, being called and duly sworn as a witness in behalf of the defendants, testified as follows:

Direct-examination by Mr. Sparks:

Q. Do you know Mr. Fisher? A. I do.

Q. For how many years? A. I have known him casually I think ever since he has lived in Scranton,

and I have known him intimately for the last nine or ten years.

Q. What is your business? A. Now general secretary of the Scranton Board of Trade and city treasurer of Scranton.

Q. Have you worked with Mr. Fisher in the past? A. We have worked together in the Board of Trade for the last ten years.

Q. Are you familiar with Mr. Fisher's general reputation for truth and veracity in the community in which he lives? A. I am.

Q. What is it? A. Good.

1598

Q. And are you familiar with his general reputation as a law-abiding citizen at that community? A. Yes, sir.

Q. Tell me what it is. A. Good.

Q. Do you know his general activities and general work in Scranton during the past five or ten years? A. I know his activities in connection with commercial organizations particularly.

Mr. Oeland: We object to it as not the issue.

The Court: It will be allowed.

Mr. Sparks: It does seem to me that formal asking of questions of a character witness, while it has grown up as the practice, is not a good way of proving a man's reputation and what he is and having a detailed statement of what the witness knows he has done. I know it is the practice to ask that sort of *pro forma* question, but if a witness knows, I think it is largely a matter within your Honor's discretion.

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The Court: I think the law is well settled that a defendant may give any evidence as to good character and good character is de-

1600

Mark J. Edgar

terminated by what his reputation is. Reputation is made up of what others say of him, according to common report. Now, what the witness may know about him personally, I hardly think is admissible.

By Mr. Sparks:

Q. Have you heard of Mr. Fisher spoken of in Scranton during the past ten years or nine years that you have known him?

1601

Objected to. Question allowed.

By the Court:

Q. How much or how little have you heard according to common report, Mr. Witness—do you know what his reputation is? A. His reputation is good.

By Mr. Sparks:

Q. Have you heard him often spoken of by the people of Scranton in particular? A. Yes, sir; I have heard him spoken of many times, particularly in reference to his activities in the Scranton Board of Trade.

1602

Q. Is his general character good—that is, his reputation? A. Yes, sir.

(No cross-examination.)

Mr. Sparks: I should like to accommodate another witness who comes from Scranton.

The Court: Yes, I think these witnesses who come from a distance should be accommodated.

MADISON F. LARKIN, being called and duly sworn as a witness on behalf of the defendant Fisher, testified as follows:

Direct-examination by Mr. Sparks:

Q. Where do you reside? A. Scranton.

Q. What is your business? A. Treasurer of the Scranton Life Insurance Company and treasurer of the Board of Trade and assistant secretary of the International Correspondence School.

Q. Do you know Mr. Fisher? A. Yes, sir.

Q. Do you know his general reputation in Scranton for truth and veracity? A. Very good. 1604

Q. Do you know his general reputation as a law-abiding citizen? A. Yes, sir.

Q. What is it? A. Very good.

Q. Do you know what his general reputation for good character is? A. Yes, sir.

Q. What is it? A. Very good.

(No cross-examination.)

By Mr. Sparks:

Q. Do you know Mr. Woodworth? A. Yes, sir.

Q. Do you know the defendant, Clayton J. Woodworth? A. I know him for nearly twenty years. 1605

Q. Do you know what his general reputation for truth and veracity is? A. Very good.

Q. What his general reputation as a law-abiding citizen is? A. Very good.

Q. And what his general reputation for good character is? A. Very good.

(No cross-examination.)

JOHN T. DUNNE, being called and duly sworn as a witness for the defendants, testified as follows:

Direct-examination by Mr. Sparks:

Q. Mr. Dunne, you are an attorney at law? A. Yes, sir.

Q. Practicing in the State of Pennsylvania? A. Yes, sir.

Q. Do you know Mr. Fisher? A. I have known him since 1895.

1607 Q. Something like 23 years. You know what his general reputation in his community for truth and veracity is? A. Very good.

Q. Do you know what his general reputation as a law-abiding citizen is? A. First-class.

Q. And do you know his general reputation for general good character? A. Very good.

CROSS-EXAMINATION by Mr. Oeland:

Q. Did you get hold of his book? A. No, sir.

1608 MR. FISHER, recalled, testified as follows:

Cross-examination continued by Mr. Oeland:

Q. Who were the members of the editorial staff of the "Watch Tower" at the time you were? A. On December 15th there were Joseph F. Rutherford, W. E. Van Amburgh, F. H. Robison and R. H. Hirsh.

Q. You succeeded Mr. Hirsh? A. No, sir; these are men with me.

Q. Hirsh left the organization in July, didn't he? A. That is a matter of hearsay with me.

Q. You know he was not around there? A. I wasn't at the building; no, sir. I was living at Scranton.

Q. Is that your home now? A. Yes, sir; up to the present time.

Q. Were you there on July 17th, when Mr. Hirsh left? A. I was there on July 17th. Whether Mr. Hirsh left or not I don't know.

Q. He was removed as a director on that date, by order of the president, wasn't he? A. He had been a director up to that time and after that he was not one.

Q. Did not the president order that he be a director no longer, on July 17th? Did he not fill his place with somebody else? A. Yes, sir; his place was filled by the president. 1610

Q. Don't you know after that date he was not a member of the editorial staff? A. I was speaking of the Board of Directors. That is different from the editorial staff. I am trying to give you an answer. I don't want to give you hearsay answers, if I can help it.

Q. You were on the board at that time and continued up to the present time? A. Which board, Mr. Oeland?

Q. I mean the editorial staff. A. My memorandum here is that about October or September I became a member of the editorial staff. 1611

Q. Of the "Watch Tower"? A. Yes, sir.

Q. My question is how long did you remain? A. I am still on the board.

Q. As a member of the editorial staff how often did you meet with the other editors? A. I never met with them.

Q. Did you contribute articles for the "Watch Tower"? A. Yes, sir.

Q. And did they submit articles to you for examination and approval? A. Yes, sir.

Q. How would you work that out? An article came in and one man would approve it and send it

to you by mail and you would approve it and read it and something like that? A. An article would come to me in Scranton and I would read it over and make notations and suggestions on it and return it to Brooklyn.

Q. As one of the editorial staff you knew that a great many pamphlets were being printed for different periodicals? A. I had no knowledge of anything being published except the "Watch Tower."

Q. But you received copies of the "Bible Students' Monthly" from time to time? A. No, sir.

1613 Q. You did not get any copies? A. No, sir. I was editor of the "Watch Tower."

Q. As a member of the organization didn't you from time to time get articles issued by the "Bible Students' Monthly" and the People's Pulpit Association? A. No, sir; only as copies fell into my hands.

Q. Did they fall into your hands? A. Copies of a few issues did, but not many issues.

Q. You knew the general plan of work at the building, didn't you, as a member of the Board of Directors? A. The only matters that came to my attention as a director were matters properly handled by the directors—other matters and details I knew
1614 very little about.

Q. Didn't you know Mr. Robison was working there? A. I did not; no, sir. He was in Cleveland part of the time. I didn't know whether he was at Brooklyn or Cleveland.

Q. You knew Mr. Rutherford was working there? A. Yes, sir.

Q. Knew Mr. McMillan was working there? A. I know they were.

Q. You knew Van Amburgh was there? A. Yes, sir.

Q. And Martin? A. Yes, sir; I knew about him, too.

Q. Now, you said that you wrote the article on page 406 of "The Finished Mystery," beginning with "They have blown the trumpet," except a certain portion of it. What was the portion you did not write?

A. The last sentence.

Q. "There is a hint here that conscription will meet with opposition"? A. Yes, sir.

Q. You did not write that? A. No, sir.

Q. When did you first see that in print? A. Some months after the book came out, when I first read the book over in toto.

By the Court:

1616

Q. Do you know who did put that in? A. Only by hearsay, your Honor.

By Mr. Oeland:

Q. Did any of the defendants tell you they put it in there? A. Yes, sir.

Q. Which one? A. Mr. Woodworth.

Q. Was he writing part of your part of the book? A. He wrote this.

Q. Did you write any part of his part of the book? A. No, sir.

By the Court:

1617

Q. Put that in unbeknown to you, part of your work? A. It was put in afterwards, your Honor; after I had finished my part of the work.

By Mr. Oeland:

Q. It was put in before the first copy was printed, was it not? A. Yes, sir.

Q. He did not consult with you about it—you were expounding Ezekiel then? A. Yes, sir.

Q. And his idea was that the part of Ezekiel, Chapter VII, Paragraph 14—what does "7:14" mean? A. Seventh chapter and fourteenth verse.

1618

George H. Fisher

Q. His idea was that Ezekiel in writing the seventh chapter, fourteenth verse had in mind that conscription would meet with opposition? A. No, sir, that would require some explanation. In speaking of the Apostle's message, it says, "They did not understand what they said." They spoke mechanically, but the Lord knew what was meant.

Q. He is about the only one that ever did know? A. He was the only one that knew at the time the Prophets spoke. He knew then.

1619

By the Court:

Q. Did not this Mr. Woodworth make an addition to your work without your knowledge and consent? A. I might state that as to the method that we took, that it was very much too large and had to be cut down in places, how much I do not know, but one-half or a third from what the original manuscript was, and I was very busy working out, trying to understand this book. It was extremely difficult to get any explanation of it at all, and as I understand, Mr. Woodworth did the cutting out of the entire book after the manuscript was all finished.

Q. Did you know he was going to cut it down?

1620

A. I knew it was to be cut down.

Q. Then you knew that your work was turned over to him for such cutting down as he desired— A. Well, any changes in my work amounted mostly to improvements.

Q. You knew that your work was turned over to him for revision? A. To a limited extent. There was a very limited revision or change made in my part.

By Mr. Oeland:

Q. This was not a cutting down, but an adding to? A. Evidently, yes, sir.

Q. This was added to? A. Yes, sir.

Q. Did you say you did not finish your part of it until June 25, 1917? A. That was the date I had, because I had no record of the date. It must have been before the last manuscript was in.

Q. You knew that the Conscription Act or Selective Draft Act was passed in May, 1917, before this was written? A. Yes, sir, I knew that.

Q. And it was before Mr. Woodworth put in this part, "There is a hint here that conscription will meet with opposition"? A. Yes, sir, it was before that.

Q. So he could not have had anything in mind except referring to the Selective Draft Act?

1622

Mr. Sparks: I object to that as calling for the operation of another person's mind.

(Questions withdrawn.)

Q. You did not know of any other conscription act except what we know as the Selective Draft Act? A. I didn't know at what time that was done. I didn't know anything about it.

Q. And as conscription did meet with opposition in other countries, it was a safe prophecy to say it would meet with it here? A. I don't know anything about what was intended by this. I can't tell you.

1623

By the Court:

Q. Are you opposed to conscription? A. I never was opposed to it, your Honor. I always regarded it in the case of a large war—always favored it.

Q. Do you think it would be wrong for you to join the army and shoot a soldier? A. It would be wrong for me to engage in any combatant branch of the service, not in the non-combatant branch.

Q. You don't think it is wrong for any one to engage themselves as a soldier and shoot the enemy? A. Your Honor, I believe in allowing every man the freedom of his own conscience. If he believes it is

right for him, I don't say for him what he shall or shall not do, any more than I could for you. We believe in complete liberty of conscience for other people as well as for ourselves. If one believes in fighting in the combatant branch I would wish him well in that branch. I could not take part myself.

Q. So far as your idea of your doctrines goes, it is not your attitude to object to anybody going into the service he feels a mind to; is that correct? A. I have always recommended men who felt they could conscientiously go into the service to do so.

1625

Q. According to your doctrine, isn't it wrong for them to do so? A. Your Honor, the Bible teaches that it is wrong for a man to do a thing which violates his own conscience. If one man feels a thing is right, and it is not an immoral act, I feel that it is right for him to do it. Does that answer the question, your Honor?

Q. In other words, those who believe in this society and believe in your doctrine—your doctrine is, it is wrong for you to engage in warfare, and it is right for the rest of us to engage in warfare if we want to? A. According to a man's conscience, your Honor.

1626

Q. That is, according to your doctrine, it is wrong for you and those who believe with you to engage in warfare, and it is all right for the rest of us to engage in warfare if we want to? In other words, you won't engage in warfare to protect yourselves, but you are willing for the rest of us to engage in warfare to protect you? A. That is not the idea. I would not put it that way.

Q. That is the result of it, isn't it? A. I would not put it that way. I would say this; a Christian is just the same as any other person, but if he is a fully consecrated Christian he has the Word of God to follow, in addition to the word—the ideas that anybody else would follow. Now, as an ordinary man I

would be one of the first to enlist to fight, but the law of Christ which I have learned from the Bible teaches me that I must not fight and I must do my best to follow the law of Christ in those matters in which it is given to me to follow as a Christian. But another man who has not accepted the law of Christ, has not made a full consecration of himself, I wouldn't lay down any such law for him until he acts it for himself.

By Mr. Oeland:

Q. Suppose a member of your organization says to you that, I want to fight, would you feel disposed to tell him that he should not take any service, or write him a letter telling him to take no service under the flag? A. No, sir.

1628

Q. Do you understand that it is your doctrine that you should advise every man who wants to fight, if he be a member, that he shall not do anything?

Mr. Sparks: I object to it. I don't think he has a right to assume something which is not in the evidence.

The Court: He can ask him.

Mr. Sparks: I think it is a rule of cross-examination that you can't embody in your question anything that is not in the case.

1629

The Court: It will be allowed.

Defendant excepts.

By Mr. Oeland:

Q. My question is, should a member of your organization come to you and say, I feel that I ought to fight and I want to fight in this war, I want to do my duty. Is it part of your religious doctrine that you should advise and tell him not to do it, to take no service? A. I leave that to his own conscience in the matter, but our doctrine, Mr. Oeland, is that we should

follow the law of Christ. We should do our best to follow the law of Christ—he is not a member of our organization until he knows the law of Christ.

Q. Suppose he don't know it and he comes to you and he says I want to fight. Is it part of your doctrine to say to him you cannot. If you do you will be a murderer? A. We never say that to anyone, you can't do anything. We leave it to each man's conscience.

1631

Q. You said that on the next page there was something added, on page 407: "There was a literal fulfillment of this Scripture in 1898" and so forth. You did not write that in the book? A. To the best of my knowledge and recollection I did not.

Q. Who wrote that? A. I think Mr. Woodworth did.

Q. You knew he was going to make additions and corrections in your work and you assented to it? A. Yes, sir.

Q. When did you first see this part of the book there on page 247? When did you first see that production of Mr. Woodworth's? A. My memory would have to be refreshed so I could tell you the exact date.

1632

Q. You saw it when you read the book over? A. Yes, sir.

Q. Did not you talk with Mr. Woodworth prior to the time you read it over, didn't you talk to Mr. Woodworth about this paragraph? A. I think I did.

Q. How long before you read it in print was it that you talked with him about this paragraph? A. That I could not say without refreshing my memory.

Q. Wasn't it at the time that you and he were collaborating together in the preparation of the book? A. I believe—

Q. You knew that was in there before the book was published? A. I knew it was in there.

Q. You talked to Mr. Woodworth about it? A. Yes, sir.

Q. You knew that was to go into the publication?

A. I did not know what was to go into the publication, Mr. Oeland.

Q. You did see it in the publication when it came out? A. Yes, sir.

Q. You knew he was proposing this for the publication? A. Yes, sir.

The Court thereupon ordered a recess until Wednesday, June 12, 1918, at ten A. M.

1634

Brooklyn, New York,
June 12, 1918, 10:00 A. M.

The Court met pursuant to adjournment.

Present: Parties as before.

GEORGE H. FISHER, recalled for further cross-examination.

Cross-examination continued by Mr. Oeland:

Q. Mr. Fisher, we were just examining, I believe it was at page 407, beginning with the words: "There was a literal fulfillment of this Scripture in 1898." You say you did not write that? A. I wrote the first half of it, Mr. Oeland.

1635

Q. No, you did not catch my question: "There was a literal fulfillment of this Scripture in 1898." A. No, I did not write that.

Q. When did you first see that? A. It was several months after Mrs. Fisher was reading it in the book to me and she came to that and I saw it at the time, several months afterwards. I cannot tell you when it was.

Q. That was written by Mr. Woodworth? A. Mr. Woodworth says he wrote it.

Q. And did you send your manuscript in; was it sent in bulk or by parcels, by parcels part of the time?

A. Well, I sent it in. I wrote my manuscript in pencil. I had not had good enough health to typewrite. I cannot stand work like that, and as I wrote it out I would hand it to Mr. Woodworth, and he would take and typewrite it and bring it back to me, and I would make any changes I saw fit in the typewritten manuscript and hand it back to him.

1637 Q. Did Mr. Woodworth have any of the stenographers from the "Watch Tower" down there working; where did he have it typewritten? A. He did it himself, Mr. Oeland, he has a typewriter at home.

Mr. Sparks: He did it personally, did you say?

The Witness: Yes, at home on the typewriter.

Q. Now, counsel asked you at length about your intention yesterday, let us go over that just briefly. You intended this book to be read by people, didn't you? A. Mr. Oeland, if the book were published—

1638 Q. Now, we have passed that point. We got to where it was published, and you read it after it was published. So, I am not wasting any time about that. A. I get your point.

The Court: It was written in the hope that it would be published, wasn't it?

The Witness: I was very glad to have what I wrote used.

The Court: That was the very purpose of writing it, was to have it published?

The Witness: Yes, sir.

The Court: And you expected it would be used primarily by Bible Students and others who might possibly be interested in it?

Mr. Oeland: Well, you wrote it with the intention that it should be read?

The Witness: Yes, sir.

Q. You wrote it with the intent that such persons as should read it, would believe it? A. Such persons that read it.

The Court: You wrote that they should read it all?

The Witness: I had no intention of people reading all of it or a great part of it.

Q. Well, you did intent that the book should be read and believed as written, by some people? A. Yes, I expected it would be by the Bible Students.

Q. And you intended that it should be taken in its original sense the words that were used? A. The parts of it were to be taken in their ordinary sense and the parts are written in the symbolic language.

Q. For instance, here where the expression is used "There is a hint here that conscription will meet with opposition." A. What page is that on, Mr. Oeland?

Q. That is on page 406. You meant exactly as you wrote your book after it was published you understood that it meant exactly what it said? A. Of course, I understand my own writing there.

Q. You say you saw it in the book after it was written while you were reading it. You knew it was being held out to the world as your part of the writing? A. Yes, I did.

Q. Because right in the very preface of the book here, and other written articles, it says that you had written the part relating to Ezekiel, and that is in your part of the book? A. Yes, sir.

Q. And when you read it you knew it was being held out to the world as your work? A. It would be naturally, yes.

Q. And you reading that made no objection?

1640

1641

Mr. Sparks: I object to that.

The Court: It is admitted.

Mr. Sparks: I will withdraw my objection.

A. I made no objection.

Q. On going back to the question of intent again.

A. May I state a reason there?

Q. No. I did not ask you for any reason. I wanted to know if you objected, that is all. Well, now, you wrote it with the intention that if it were approved that it should be published—now, who was to approve the book? A. I did not catch your question, Judge Oeland.

1643

Q. Who was to approve the book and determine whether or not it be printed? A. My understanding that the founders of the Watch Tower Bible & Tract Society were to approve or disapprove any matter that was submitted to them.

Q. Didn't you understand that the Board of Directors according to the by-laws of the Watch Tower & Tract Society had to pass on this before it should be printed? A. I had no understanding who was to approve it. I thought somebody would approve it down there, but I did not know who.

1644

Q. Did you subsequently learn that it was in the duty of the Board of Directors to pass upon such matters? A. No, sir.

Q. I won't go into it now, I will refer to that a little later. Well, now, you have stated that you read Mr. Woodworth's matter on page 247, and you saw that before the book was published? A. Yes, sir.

Q. And you knew that it was intended for publication, if acceptable to the authorities of the Watch Tower Bible & Tract Society? A. Yes, sir.

Q. And you knew it was to be read—I will withdraw that—you knew it was to be widely distributed or sold? A. I knew it was to be distributed but how widely I could not tell.

Q. That was one of the intentions that you had in mind when you were preparing the book? A. Yes, sir.

Q. That it might be distributed? A. Yes, sir.

Q. And your intention then was if it were printed and acceptable it would be read by many people? A. It should be read by Christian people generally.

Q. And believed by those who read it? A. Such portions would be believed as each individual wished to believe it.

The Court: No; the question is whether you hoped it would be believed? 1646

Mr. Oeland (interposing): By people who read it?

The Witness: I hoped that they would believe the book.

Q. All of it? A. Yes; I would say all of it.

The Court: The larger number that read and believed it, the more it would be to your liking or satisfaction to you?

The Witness: Yes, sir.

Q. That was the intention you had in mind in preparing your part of it? A. Yes, sir. 1647

The Court: Now, won't you ask him in writing the book, wasn't it his purpose to convert many to follow the belief and doctrine set forth?

Q. Was the purpose for which this book was gotten up discussed between you and Mr. Woodworth? A. To the best of my recollection it was.

Q. And with Mr. Rutherford? A. My recollection of that would have to be refreshed on that. I do not remember.

Q. You won't say either way? A. No, sir.

Q. Now, wasn't this book written, Pastor Russell being dead, with the hope that it would bring about and cement and hold together his followers? A. That was not my thought, Mr. Oeland. I had no such knowledge of anything like that being needed or helpful.

Q. Didn't you expect it would be helpful in bringing others into the society? A. No; I did not expect that particularly. No; I did not expect that, Mr. Oeland.

Q. Well, you did not write it—

1649

The Court (interposing): Whether particular or not?

The Witness: No; I did not expect it would have that effect, Mr. Oeland.

Q. You did not write it to drive people away from the society? A. No; the idea in writing the book was to make known what the people seemed to indicate God says would come on the Christian people of the world unless they changed their course in some measure. It was written, as we understand it, as a timely warning by God to the Christian people of the world.

1650

Q. Well, didn't you have in mind that you wanted to save as much of the world as possible? A. We did not understand that to be the purpose of the book?

The Court: Now, that is not the question and answer. Didn't you have in mind—will you repeat the question?

Q. Didn't you have in mind that you were writing it with the intention of saving as many of mankind as possible? A. No, sir.

Q. You do not tell the jury that you are perfectly willing for the whole world, except your few followers, to be damned, do you? A. That is not our teaching, Mr. Oeland, no; it is not our teaching.

Q. Don't you teach your little band, as you call them, I believe they are styled The Little Flock, the Band of Gideon, I think you sometimes call it, shall be the pride of Christ? A. We teach that, but that is not all of those who are saved.

Q. Well, you have a little better position in the salvation of the world, if I may use the expression, than anybody else, that band? A. No, sir; we have not. We are working to make our calling and election sure, striving as hard as we can to be Christians. We have no better chance than anybody in this court room nor any other Christian person, who has the Bible at command. We believe that hundreds of millions, in fact, billions of people will be saved, but we have no such conceit as that.

1652

Q. Don't your doctrines teach that you will be the elect, those who follow the doctrines as taught by Mr. Russell, or his construction of the Bible; isn't that what you teach? A. We do not teach exactly that. We teach we believe—our belief is that we have a true understanding of the Bible, and, therefore, we have the one chance of making good, more chance than a person who does not understand the truth.

Q. Well, I am not going to press that further. Well, then, having that belief, didn't you write that book with the object of bringing other people into that class where you would have a little better showing? A. That was not our purpose in writing the book. I will answer no to the question.

1653

Q. You had an intention that it should be widely read? A. Yes, sir.

Q. And you expected it to be widely read? A. Yes, sir.

Q. And you did not put any limitations on it as to those who should read it? A. No, sir.

Q. And you wanted it to be read by all? A. All Christian people.

Q. And you wanted the unchristian to read it so they would become Christians? A. The purpose of the book was not to make Christians. The purpose of the Book of Revelations is stated at the end of the book, not to make Christians. It is not an evangelizing book for the people. It is merely a book of prophecy, which has no particular effect in converting people or not.

Q. Is it kind of to scare them? A. No, sir.

1655 Q. Well, did this language meet with your approval that Satan deals with a certain delusion which is best described by the word, patriotism, but which is in reality murder, the spirit of the very devil; did that meet with your full approval? A. No, sir.

Q. You knew Mr. Woodworth had written that? A. Yes, sir.

Q. You knew it was to be published and circulated in a book that you had helped to produce? A. Yes, sir.

Q. And that you did not agree with it? A. I did not agree with that because my conception of patriotism does not agree with that, but there is a delusion which has been in Germany and some of those other countries.

1656 Q. My question was: Did you believe it or did you not?

Mr. Sparks: He has a right to say that certain parts of the sentence he might approve of, and other parts he might not. You cannot limit him to one thing.

The Court: How is it material whether he approves of this or not? Under the statute a person who aids, assists or abets another—wouldn't this be aiding, assisting and abetting the other in putting out his manuscript. I do not see how this is material under the law. Under the law isn't this man more responsible

than—responsible for all that is written in this book, whether written by him or his associate editor? 1657

Mr. Oeland: I agree with you, and he is still more liable if it is there without his approval. I need not ask these questions, but I am trying to show that something was being published that he did not approve of, and it makes him still more criminal in the eyes of the law as I read it, because he did nothing to prevent it.

The Court: Well, he aided and assisted and encouraged.

Mr. Sparks: Does your Honor make that as a statement of fact? 1658

The Court: Well, I state that as the tendency of the evidence thus far.

Mr. Sparks: We take an exception to the Court so stating it.

The Court: What is the objection to that?

Mr. Sparks: I do not think the Court has a right before the examination of the witness is finished to make any statement in reference to what his evidence shows.

The Court: Well, according to your conception of the rights of the Court, the Court will be pretty much powerless.

Mr. Sparks: All I want to do is to take an exception to what I consider the Court hasn't any right to do, so as to preserve my rights on the record 1659

The Court: It seems rather singular to the Court in view of the well known rule that this Court has a well known right to comment on the evidence, to express an opinion on the evidence, and for you to advise the jury which way they should decide the facts as they should see fit. The counsel continually take excep-

1660

tions and make objections to things it must know—they must know—the Court has a perfect legal right to do. It seems to me to be challenging the well known, well set, well established rights of the Court, continually.

Mr. Sparks: Is your Honor finished, so that I may make my statement?

The Court: You may make an objection and take an exception.

1661

Mr Sparks: I cannot tell when your Honor finishes, and, therefore, I do not want to interrupt you unseemingly and appear to be discourteous. This is the reason I asked. We entirely disagree with your Honor's statement that we know a well known rule when as a matter of fact we think that the Court has no power to tell any jury how they should decide the case, and if this is the law, then the jury can entirely be dispensed with and the Court register its verdict of guilty or not guilty, according as it goes. If the jury is bound to take your Honor's opinion as to how they should find, why, the jury is a useless appendage of the court.

1662

The Court: That is not what the Court said. The Court said it had the right to express its opinion even—

Mr. Sparks: And tell them how they should find.

The Court: Wait just a moment. I have advised you of this right and this law several times. You are not sufficiently advised as to the rules of this court in this regard. It would be a fine thing for you to acquaint yourself with the authorities, rather than continually to oppose the Court and continue to do that, and if you need time to do that, the Court will give it to you.

Mr. Sparks: We do not need any time.

The Court: Ever since the Constitution and the establishment of the courts of the United States, it has been the well known, well recognized doctrine, without regard to the practice of the state courts, that this Court has a right to advise the jury how they should decide the case, but I told you I did not exercise that right, but in the admission of evidence here, because the Court states what the tendency of what the evidence is upon being made with objection and exception, then counsel continually take exception to that action of the Court. It seems to be an extraordinary thing to do.

1664

Mr. Sparks: I will take exception to the remarks of the Court as addressed to counsel, and also except to your Honor's statement of the law as to what powers are in respect to directing a jury as to how the Court thinks it ought to find.

The Court: Now, the Court has not said anything about directing the jury. It seems that you have not yet comprehended the discretion. The Court merely has said it has the right to advise the jury.

1665

Mr. Sparks: And I substitute the word "advise" for the other word that I used.

The Court: You may proceed.

Mr. Sparks: Exception.

Q. Who wrote the preface to the book, Mr. Fisher?

A. I understand that Mr. Rutherford wrote the preface of the book.

Q. And did he say so? A. Yes, sir; he said so in my presence.

Q. When was that? A. My memory on that was so poor it would have to be refreshed a good deal. I would, if I could.

Q. When you wrote your manuscript and mailed it, to whom did you mail it? A. I did not mail any of the manuscript. All my manuscript I turned over to Mr. Woodworth.

Q. And he took charge of it? A. Yes, sir; he took charge of it.

Q. Well, now, you did know that there was considerable opposition to the publication of this book up there by the directors of the society? A. No; I did not know anything about it. I had not heard anything about it.

1667 Q. Did you know that Mr. Rutherford was very active in the Selective Draft Act? A. No; I did not know that.

Q. Well, don't this refresh your recollection. At the meeting of the 17th of July, 1917, as early as that, didn't Mr. Rutherford make a written report which you after approved and in which is set forth "as is well known to all. Congress passed a Conscription Act, and considerable time has been required by me in the examination of this act, and in giving advice to inquiring brethren throughout the country. I made a visit to the War Department at Washington, and after personal interview with the society and our brethren, my personal correspondence has been greatly increased because of the Conscription Act, and for several months has required the service of two stenographers," you knew that as early as July 17, 1917? A. Yes, sir, Mr. Oeland; I knew it then. I thought you were referring to knowledge of that previous to that time. This was the first I knew of it.

1668 Q. And didn't you on the same day learn there had been considerable in the society to the publication of the seventh volume? A. Yes, sir. I did not learn about opposition to the publication of the seventh volume. I learned of the difficulty that had arisen in the management of the society.

Q. Let us see if this does not refresh your recollection. This is a written report that you afterwards approved: "When time came for the publishing of this work we were in the midst of much opposition, and knowing that to consult the objectors would be to hinder the publication of the volume, I took counsel with Brothers Van Amburgh, MacMillan, Martin and Hudgings"? A. What is the question?

Q. My question was, doesn't that refresh your recollection that you did not know there was opposition among the directors of the Watch Tower Bible & Tract Society of the publication of this volume? 1670

A. There was opposition among the directors concerning the general management, but I did not know there was any opposition to the publication of the book.

Q. Well, you approved this written report? A. I understand that. But that does not refer to the opposition of the book.

Q. Well, let us read it: "When time came for the publication of this work we were in the midst of much opposition, and knowing that to consult the objectors would hinder the publication of the volume, I took counsel with Brothers Van Amburgh, MacMillan, Martin and Hudgings of the office force." How can you consider that except opposition to the publication of this volume? A. Mr. Oeland, I will tell you. When I say I did not know of any opposition to the publication of the book, there was opposition concerning other matters than the book, as I understood it. 1671

Mr. Sparks: I object. If he states that as his understanding of what that meant, it cannot be changed by the fact that there is an ambiguity in the resolution or the minutes.

Mr. Oeland: We do not admit an ambiguity.

Mr. Fuller: The fact there "In the midst of opposition with the society," the opposition re-

1672

George H. Fisher

ferred to was the opposition to the publication of the book. The sentence properly read hasn't any ambiguity in it whatever. It simply does not mention what the opposition was.

Q. Well, didn't you know that some of the directors were opposing it, because they said they had no opportunity to read it? A. No, sir.

Q. And then, you knew nothing at all of any opposition to the publishing of the book is what I am asking you? A. No, sir.

1673 Q. And you signed a written statement approving this written report by Mr. Rutherford? A. Yes, sir.

Q. I show you Exhibit 31, and you say that is your signature? A. Yes, sir.

RE-DIRECT EXAMINATION by Mr. Sparks:

Q. Mr. Fisher, when you finished your manuscript you turned it over to the society, and your ownership of that manuscript thereupon ceased? A. I turned it over to Mr. Woodworth and he turned it over to the society.

1674 Q. I am not speaking of the physical fact of turning over, but after you had finished your manuscript and had turned it over, whether it was done by Mr. Woodworth or other persons, your ownership to that manuscript thereupon ceased and you donated it to the society? A. Yes, sir.

Q. And at the time you turned it over you had no control over what was done with the manuscript? A. No, sir.

Q. And the work that you are going and the work that Mr. Woodworth was doing, had you any right to publish any part of the book that he was writing? A. I did not have any right to publish it, any part that he was writing.

Q. You say that there is some special purpose of

the Book of Revelations, as you understand it, and you were not permitted to finish what that purpose is. Will you now state—

The Court: (Interposed.) You say you had no right to publish the part he was doing, but you had a right to refuse to join hands with him. You acted with him in publishing both parts; you certainly had that right, you understood it.

Mr. Sparks: I take exception to the Court's remarks. I take exception to the remarks of the Court.

1676

The Court: Yes; the exception is granted. The Court is not to sit here like a dummy, even if you do take exceptions.

Mr. Sparks: I am not asking the Court to sit here like a dummy.

The Court: That would be the effect.

Mr. Sparks: May I finish my statement without interruption?

The Court: No; when the Court is finished.

Mr. Sparks: No; I was speaking when the Court interrupted me.

The Court: No; I beg your pardon.

Mr. Sparks: May I make the statement I was making when the Court interrupted me?

1677

The Court: Yes; you may.

Mr. Sparks: I am not asking the Court to sit here like a dummy. I am simply trying to take my legal objections for the protection of my clients, and every time I take an exception the Court makes some remark upon my conduct, to which I take exception.

The Court: No, the Court does not. That is a misstatement, a very grave misstatement. Altogether unwarranted. The Court has been exceedingly patient and indulgent with you,

1678

especially in the legal propositions that you have announced here, many of which are unheard of, unknown to the Court. The Court is going to be exceedingly patient and indulgent with you throughout the trial, whatever your conduct may be, however aggravating your conduct may be toward the Court, the Court is going to let you go to the very outside limit in that regard. But, at the same time, in explaining that indulgence and taking this position, I am now—the Court is not going to allow you to prevent the Court from asking proper questions, asking legal questions, to exercise some of its rights.

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Mr. Sparks: Is your Honor finished?

The Court: No. And, in taking this position, the Court has made up its mind that the attitude of Mr. Sparks is one very extraordinary. It seems to be for the purpose of leading the Court into error, if possible, of course, it is one that is seldom practiced in trial courts of general jurisdiction. To make objections and take exceptions to questions that are thoroughly proper, and to do that continually I must say that I hardly know what to think of. Now, the Court has extended you every latitude in the defense, and it is going to do so. If there is any doubt about it, I am going to rule in the defense's favor, and I shall continue to do that. Now, you may proceed.

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Mr. Sparks: I take an exception to those remarks, and especially that part of your Honor's remarks where you say that Mr. Sparks seems to have the habit of leading the Court, if possible, into error.

The Court: Well, that is the only construction I can put upon your talk, Mr. Sparks.

Mr. Sparks: I take an exception.

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The Court: I have had to ask you several times what the objections were. Now, objections made to these things that are so well established—why, if we were in a Justice of the Peace Court, such as we have at home in Vermont, this would be a very ordinary way of practicing, but to meet with it here is surprising, and then, your attitude towards the Court seems to be one of hostility. Now, there is no occasion for that whatever. And that is what I have in mind when I say I am going with—I am going to bear with you and be considerate and indulgent with you, notwithstanding your attitude, and I am going to let you carry that to the very outside limit. Of course, the Court has power to stop it at any time. The Court has much power. Now, I am not going to exercise that power unless you drive me to it. It would be easy to exercise that power at any time. The difficulty I am having is in refusing to exercise it. I am trying to do the large thing with you.

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Mr. Sparks: Now, for the purpose of protecting my position and clients, I now and here ask the Court to exercise the power that you have just indicated that you have, so that I may take exception to it, and from now until the end of the trial, I will not so transgress what your Honor considers my conduct, and by making that ruling and taking exception to it, I can preserve my clients' rights from now until the end of the trial, without having these discussions with the Court as to whether my conduct is that of practice in the police courts. I have practiced for twenty years in these courts

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and it is the first time that any court of original jurisdiction has had any occasion to address any such remarks as your Honor has to me. I have probably tried, in this jurisdiction and in this court and in the Supreme Court of the State of New York, as many cases as any ordinary lawyer that practices at the bar, and for your Honor to come to this court and make remarks of that kind, when I am trying to protect my clients' interests and their rights, I take the grave exception and call upon and ask your Honor and willingly invite that you exercise the power that you speak of, and I am perfectly content from that time on to have no colloquy with your Honor in reference to the trial of this case or its ruling or what it considers the law, wherein it differs from mine. Now, if your Honor will kindly do that, I will be very well satisfied.

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The Court: In view of what you say in regard to your experience and your practice I must not omit to remind you of your coming into the library at the Court's invitation and commencing to swear and curse Judge Oeland and by indirection to swear and curse at the Court, until it became necessary for the Court to order you to leave the room. While the Court has had considerable experience with human nature and with men generally, I still say that your attitude seems to be one of hostility and arrogance toward the Court; now, the Court has been very considerate and indulgent with you throughout this trial. The Court will continue to the very outside limit of all patience, because that is the duty of the Court, notwithstanding what your attitude may be. Now, you have

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noted all exceptions that Mr. Sparks has taken. 1687
 Now, gentlemen of the jury, you must bear in mind that we are not trying Mr. Sparks. He is not on trial here. That is just what the Court is bearing upon. He is not on trial here. I should feel very bad indeed if I allowed his attitude to influence me in the least against his clients, because that would be manifestly wrong. We must all try to do the large thing, so you won't use anything the Court has said for or against the defendants.

Mr. Sparks: In view of your Honor's taking advantage to put upon the record in open court an incident which occurred in your chambers, where I had been invited and not asked, that my remarks on that occasion consisted of these words and in which statement I was trying to protect the Court from a concealment by counsel for the Government. I wish to make this statement. Mrs. Hudgings was upon the stand. She was being asked about a letter, and the Court had been led into a position and belief that she had written that letter. Your Honor was suggesting to Mrs. Hudgings that she better be very careful about her denial of her authorship or writing of that letter, and was about to take an adjournment for the purpose of allowing her to think it over. All of which occurrences took a considerable length of time. Counsel for the Government, consisting of three representatives sat still and left the Court under the impression that Mrs. Hudgings had written that letter and that she was undertaking to deny it. When I got into your chambers, counsel stated to the Court that the Court was mistaken in assuming that Mrs. Hudgings had written that 1688
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letter, and when I asserted that the Government had deliberately sat in open court before this jury, and let the Court examine Mrs. Hudgings in the way it did on the subject, all I said was that I considered the attorneys for the Government and their conduct a damnable outrage and that was all that was said. I did not curse at the Court and I did not curse at Mr. Oeland, or at anyone else, and if—for your Honor to make a statement to the effect that I did when all I said was that the conduct of the Government's attorneys in taking that attitude and holding this little woman up to contempt and to scorn in front of all these spectators was a damnable outrage.

The Court: Well, Judge Oeland, I do not hear anything further. You may proceed. The Court won't take any further issue with this attorney as to what occurred.

Mr. Oeland: I am through with the witness, if your Honor please.

By Mr. Sparks:

Q. Will you answer the question that was propounded, what is the purpose of Revelations?

The Court: That is, the Court will not discuss what was, in fact, said.

A. Will you repeat the question, Mr. Sparks?

The Court: The Court would not have referred to that, except that the attorney has recommended himself so strongly for so many years.

(The stenographer reads the question as follows):

“Q. You say that there is some special purpose of the Book of Revelations as you understand it, and

you were not permitted to finish what that purpose was. Will you now state it?" A. That it is a book of prophecy of the history of the Christian Church, and it is a book, the purpose of which is not what would be called an evangelizing book. That is to say, it is not a book intended to convert people to Christianity, but merely a statement of the writing down of history in advance in the form of symbols, which were not understood by persons who wrote them down, but which were understood by God, who gave this Revelation to the church.

Q. Is the part of "The Finished Mystery" which Mr. Woodworth wrote, in your opinion an exposition of these symbols as set forth in Revelations? I so understand it, I believe it is. 1694

Q. Is any part of the creed or principles of the International Bible Students Association to convert others peoples to its teachings? A. Yes, sir.

Q. Did they ever solicit a person or ask a person to join with them in the work? A. We circulate literature and books and give addresses and teach, and the people who hear the teachings are at liberty to come but are not solicited to come.

Q. Or asked to join? A. Nor asked to join.

Q. When you wrote page 247, the paragraph, "Come out of the mouth of the dragon," was it your thought, or did you have any belief that, that paragraph would in any way interfere with the Government in the raising of its military forces, naval or otherwise? A. No, sir. Such a thought never entered my head. 1695

Q. What was your thought in reference to that paragraph? As a matter of fact, when you wrote that paragraph was this country at war? A. No, sir.

Q. You wrote it before this country entered the war on April 6, 1917? A. Yes, sir.

Q. And consequently you had no intent, having read it before the war, to affect the draft of the mili-

tary forces? A. No, sir, I forgot the passage was in there until after I saw the publication of the book.

Q. The part of the book on page 407, chapter 7, verse 19, "there is literal fulfillment of this" to the end of that sentence, is a quotation from the "Watch Tower" of 1898? A. I have the "Watch Tower" here. I would have to see whether it is a quotation or a summary.

Mr. Oeland: They testified yesterday that it was a summary. I do not see what is the use of going over it.

1697 The Witness: This is a summary and not a quotation.

Q. Is the object of the quotation of Pastor Russell, what he had written upon any particular verse of Ezekiel or Revelations, that is his interpretation and not your own of that particular verse? A. Yes, sir, because we believed Pastor Russell to be one of the great reformers like Luther and others who preceded him.

Q. The object of the book was to compile what he said on different verses and not to substitute your own interpretation of these phrases? A. Yes, sir.

1698 Q. And if, in compiling what Pastor Russell had written in reference to any particular verses, you omitted or forgot or did not know of something that he had written on that particular verse, any person who did know of it, could send it in and you would substitute it for what you had written? A. Yes, sir, we would have been glad of any suggestions of that kind.

Q. Well, as a matter of fact, wasn't there any advertisement or advertisements put into the Labor Lyceum to that effect? A. An advertisement to that effect was published in the "Labor Tribune" of Pittsburgh, Pennsylvania.

Q. To that effect? A. Yes, sir.

Q. And the purpose of that advertisement was to get whatever Pastor Russell had spoken or written upon the subject in case you or Mr. Woodworth did not know about that particular passage, that some person might know of? A. Yes, sir.

Q. And this part on page 407, was something that you had overlooked or didn't know of? A. I had overlooked it. I had forgotten it. There was a great deal to write and this was one thing I overlooked.

Q. So Pastor Russell, having written on this verse, that additional quotation was put in the book? A. And properly so.

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By Mr. Fuller:

Q. Did this paragraph Judge Oeland spoke to you of on page 247 produce any special impression on your mind when you read it in April, 1917, that you recall?

Mr. Oeland: That is objected to as wholly irrelevant what impression it made upon his mind.

The Court: I will allow it.

A. In one way it did, and in another way it did not. It made so little impression that I forgot it was in there, and in another way when I read it I thought that some people would not like it, but I never had any idea about it being considered objectionable by the Government.

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Q. As applying to the activities of the Government? A. Yes, sir, because we were not at war and that was the reason, and such things were not thought of as being objectionable at any such time.

RE-CROSS EXAMINATION by Mr. Oeland:

Q. The Court asked you a question and I do not recall your answering it.

The Court: No, he did not.

A. I remember that I wanted a chance to answer it.

Q. Will you answer it now? A. May I have the question repeated?

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Q. The substance of it was, you stated that you could not prevent Woodworth from presenting this—the question was that you could prevent joining with him in using your name in the publication if you had seen fit and wanted to? A. My thought on that was that Mr. Woodworth seemed to be guided by the Lord in what he wrote, and I did not feel competent to object to what he said, because I regarded him as specially helpful in the matter.

Q. You did not feel that you had the right to join in any objectionable matter that he had put out? A. I did not feel that I had a right to from the religious point of view or from any other point of view. I never thought of any other point of view than that.

Q. Well, you did not object to it? A. No, sir; I did not.

Q. Well, now, the matter written on page 247, when you wrote that you said we were not at war? A. You refer to the matter of patriotism?

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Q. Yes, that is one of them? A. Yes, we were not at war at that time.

Q. But you did read it in July or August of 1917, when we were at war? A. Yes, sometime afterwards; yes, sir.

Q. You read it then? A. Yes, sir.

Q. Mr. Russell did not write that paragraph at all, did he? A. No, sir.

Mr. Oeland: I do not want you to understand that I am disrespectful at all to Mr. Russell; we will call him Pastor Russell, or call him as you like.

Q. Anyway, Pastor Russell, as you call him, did not write that on page 247 at all? A. No, sir.

Q. He did not write that extract from Jefferson's article, did he? A. No, sir.

Q. Did you ever take the trouble to compare that with Jefferson's original article? A. No, sir.

Q. And he did not write that alleged quotation from Holmes? A. No, sir.

Q. When did you read—first read the article that is quoted from Holmes: "The war itself is wrong, its prosecution will be a crime. There is not a question raised, an issue involved, a cause at stake, which is worth the life of one blue jacket on the sea or one khaki coat in the trenches"? When did you first read that? A. Some time after it was published, to the best of my knowledge and belief.

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Q. You did not think that was referring to Germany at all? A. No, sir.

Q. Because it specifically refers to the United States being at war, doesn't it? A. Yes, sir.

Q. When did you say you first read that? A. Some time after the publication of the book. It would be impossible to state a date.

Q. Evidently your reading of that would lead you to believe that that itself was said after we were at war? A. Yes, I think so, if I recollect the gist of the article. It is rather obscure in my mind.

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Q. Well, it challenges our reasons for going into the war. "The war itself is wrong. Its prosecution will be a crime. There is not a question raised, an issue involved, a cause at stake, which is worth the life of one blue jacket on the seas or one khaki coat in the trenches." Reading that quotation, that was written after we had gone to war? A. Yes, sir.

Q. And you read that as early as July or August, 1917? A. I told you, Mr. Oeland, I could not def-

initely state the date; it was after the war and it was at a time when there was a very strong current of opinion in the United States to that effect. A great many people were talking that way.

The Court: A very strong current of opinion?

Q. And you thought that was striking good with the current of opinion and would be favorable thing to turn loose at that time with that current? A. My impression of the—

1709 Q. No, do you think—you say there was a strong current of opinion—

The Court: (Interposed.) Very strong, he said.

Q. A very strong current of opinion. Did you think it was a good time to launch on the public that thing to encourage that opinion? A. I never gave it much thought in that connection.

Q. In other words, you did not care what effect it had? A. No, I was not interested. I did not give it particular thought. It did not impress me as having any particular effect. I did not think of that.

1710 Q. Didn't you expect those words to join in and increase this current of opinion; you say there was a large current of opinion at that time? A. I did not think of it in that connection.

Q. Didn't you think it would be adding fuel to the flames, to use the common expression? A. No, sir; I did not think of it in that connection.

Q. You had in your mind at that time there was a current of opinion like that; I believe you said a very strong current of opinion like that? A. When I say very strong, I meant I noticed quite a good many articles like that in the papers.

Q. Where? A. In magazines and newspapers.

Q. What ones? A. I cannot remember. I could not state them.

The Court: Can you tell any of them?

The Witness: No, sir; I could not specify. It is a general expression of the situation as existing when people had not clearly made up their minds about the aspects and causes of the war.

Q. And you thought it would be a popular thing to add this if it be as extensive as you thought at the time? A. No, sir.

Q. You did not think that would allay that feeling, did you? A. No, sir. 1712

Q. Did you intend that it should increase and aggravate that feeling? A. I had no intention about it one way or the other.

Q. You had no concern about it? A. No; it was a paragraph buried in a book of six hundred pages, and therefore not having a particular effect, I did not think that in that connection. I thought of it as a religious book and not a book that was for political effect in any way whatever.

Q. You say buried away in a book. Don't you know as an educated man that the strongest, most insidious effect comes from covering up an article like that under religious covering? 1713

Mr. Sparks: I object to the argumentative form of the question.

The Court: Admitted.

Mr. Sparks: Exception.

A. No, sir; I never thought of such a thing.

Q. Don't you know that if an anarchist had promulgated that kind of stuff on the street, nobody would have paid any attention to him, but coming in the covers surrounded by religious teachings that it would

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George H. Fisher

reach thousands of people and aggravate that sentiment that you say was very strong at the time that book was published?

Mr. Sparks: I object to the form of the question.

The Court: Admitted.

Mr. Sparks: Exception.

A. No, sir.

By Mr. Sparks:

1715 Q. Now, Mr. Fisher, you had not seen the quotations from Jefferson's article or the Holmes article until after the book had been entirely published and copies of it sent to you? A. To the best of my knowledge and belief, that is the case.

Q. So that you had no knowledge, so far as those two articles are concerned that they were going into the book at all? A. That is the case, to the best of my recollection.

1716 Q. And from the time that you turned over your manuscript to the society and gave that to them, down to the time that the book was published, you took no activities with reference to the publication of the book or putting it on the market, or any position for its copyright or otherwise?

Mr. Oeland: I object to the conclusive nature of the question because the witness has testified he distributed some of them himself.

The Court: No, I will allow the question.

Q. Your answer is what? A. No.

Q. That you did not? A. No, sir.

(At this point a short recess was taken.)

(After recess.)

CLAYTON J. WOODWORTH, one of the defendants, called as a witness in behalf of the defendants, being duly sworn, testified as follows:

Direct-examination by Mr. Sparks:

Q. Mr. Woodworth, where do you live? A. Scranton, Pennsylvania.

Q. And how long have you lived there? A. Since the 15th of March, 1894, with the exception of about eight years.

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Q. Where were you born? A. Pitcher, Chenango County, New York.

Q. Of what parentage are you? A. My ancestors have been in this country since 1637, so far as I know they are all Americans on both sides. The name of my father was Charles Roswell Woodworth, my mother, Hannah Elizabeth Bennett. The name of my father's mother was Howe. My maternal grandfather was Swann. I mention that so you can see they are American names.

Q. What was your early education? A. I received my earliest education in the district school up until I was eight years of age, and then until I was 16 years of age at Nunda Academy, where I finished at the age of 16, and then I had one year at Geneseo State Normal School, New York State.

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Q. What religious education did you receive from your parents? A. My parents were both members of the Methodist Church, devout members, and I received a good religious instruction in my home and in the church and in Sunday School where I regularly attended.

Q. What religious studies have you pursued? A. I have been a diligent Bible student since I have been nineteen years of age. I have not been away to any

theological seminary, but I have been a very close Bible student and have given most of my spare time and attention to the Bible study since I was 19.

Q. Have you written on religious subjects? A. Yes, sir.

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Q. And for what papers and what articles? A. I have written a few articles of the Zion's Watch Tower papers, not more than a half a dozen, probably during the lifetime of Pastor Russell. Not any since his death. I had the privilege of during the years 1906 and 1907 and a portion, I think, 1905, 1906 and 1907, of engaging in the work in my spare time of the "Berian Bible Student's Manual" and a work of 500 pages, which includes 20,511 Scripture explanations, all compiled from Pastor Russell's writings, extending from 1879 and down to the time of the compilation.

Q. And as part of the work that you did on "The Finished Mystery" for the time, that work? A. That was the same work upon which my portion of "The Finished Mystery" was built. That is, the comments in this "Berian Bible Students' Manual," on the Book of Revelations, consisted of the skeleton upon which the rest of the book was constructed.

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Q. So that you did the skeleton work of your part of "The Finished Mystery" as far back as 1908? A. 1906 and 1907.

Q. When did you come in contact first with Pastor Russell's works? A. One of the colportures called at my home at Scranton in the latter part of 1895 and sold the books to my wife.

Q. Did you read them? A. I did and studied them.

Q. For how long a time? A. I engaged in the diligent study of the first three volumes of the series throughout that winter, 1895 and '96, because they brought to my attention many events of the Christian doctrine of which I had not been before satisfied.

Q. When did you first identify yourself with any class of the International Bible Students' Association?

A. From the 1st of April, 1895, April, 1895. It was in the fall of 1894 that this colporteur called at my home—about November, 1894, it was the 1st of April, 1895, when I first identified myself with the Scranton class of the Bible students.

Q. And you were in business in Scranton at that time? A. Yes, sir; at that time the chief clerk of the International Correspondence School.

Q. Were you consecrated to the Lord at that time?

A. I made my consecration when I was 19 years of age, in 1899. 1724

Q. Tell the Court and jury what your consecrating yourself to the Lord means to you? A. Consecrating myself to the Lord means to me that I should give as far as the ordinary duties of life will permit, all of my time, all of my talents, all of my influence, all of my money, all of my good name, everything that I have as a living and willing sacrifice on behalf of the Lord's truth and the Lord's people.

Q. And so far as you saw it, you did that from the age of 19 down to the time that you joined the International Bible Students' Association? A. Yes, sir.

Q. Were you baptised into that faith? A. Yes, sir. 1725

Q. And when? A. In the spring or early summer, about June, I think of the year 1896.

Q. And you have heard Mr. Fisher describe what that ceremony consisted of? A. I did.

Q. And is that your conception of what is done on the occasion that you were baptized? A. Yes, sir.

Q. Have you been ordained by the Bible Students as a regular preacher or minister? A. I have.

Q. And where were you so ordained? A. In the year 1896.

Q. And from that time down to the present time what has been your religious work on behalf of the

International Bible Students' Association? A. I have performed the duties of an elder much of the time in connection with the Scranton class, and during the years in which I was away from Scranton I performed other services traveling out Sundays frequently speaking.

Q. And did that every Sunday you were in health?

A. I have done that sometimes for as many as three or four months at a time without missing a Sunday, and on one occasion I think six months I went without missing a Sunday.

1727 Q. Did you know Pastor Russell in his lifetime?

A. I was very well acquainted with him.

Q. That is a relative term, what do you mean by "Very well acquainted with him"? A. I first met Pastor Russell at a meeting of the Bible Students in New York in the year 1895. The latter part of the year 1895, and whenever I had an opportunity after that to visit in town in which he was scheduled to speak I made it a point to visit that town and hear him speak, if it was within the limits of my personal and business engagements.

Q. Did you personally work with him or do any work for him in this religious work? A. I have done so.

1728 Q. And of what nature? A. The first work that I had in which I was directly engaged with Pastor Russell in religious work was in the year 1897, in which I placed advertisements in sundry magazines and religious periodicals advertising his reply to Ingersoll and the truth about hell, a set of Bible helps. I advertised these under my own name and the name of my wife, and carried these advertisements for some time. I assumed the financial responsibility for it, but sent the orders to Allegheny, where the headquarters of the movement were at that time, and there the orders were filled.

Q. In the scheme of Pastor Russell's work, "Studies in the Scriptures," how many volumes were there to be? A. Seven volumes.

Q. And during his lifetime did you ever talk with him with reference to the seventh volume? A. Many times.

Q. And what was the subject of your talks in that respect?

The Court: How can that be admissible? How is that legal evidence?

Mr. Sparks: That is to show, if the Court please, the inception of this book.

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The Court: Under what rule do you claim that as legal evidence, a talk he had with Pastor Russell?

Mr. Sparks: On the ground that it is hearsay?

The Court: No, the Court asks you under what rule of law you claim that can possibly be legal evidence.

Mr. Sparks: Why, I should say that Mr. Woodworth, being one of the authors of part of this book, and it being claimed that he wrote this book under a conspiracy and with intent to impede and hinder the draft, using the words of the indictment and the statute of the offense, I think that his original talk with a man who was to do this work himself, shows the frame of mind that he was in at the time that he started the work. For the purpose of enlightening the jury as to what his intent was in writing that book, I think his talk at a time when he had no motive to falsify is admissible and no declarations made prior to the criminal act or alleged criminal act, showing the frame of mind of the defendant is admissible on intent.

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Clayton J. Woodworth

The Court: Mr. Oeland?

Mr. Oeland: I don't think, if your Honor please, he might state what he said he did, but I don't see how he can state Mr. Russell did not write the book.

The Court: The question was what rule, or whether he made a contract with Pastor Russell to write the book, but the conversation itself that occurred between them, if they had one, for the purpose to show that he made an arrangement. The conversation itself with persons that were talked to is too remote at this time and it would be inadmissible as I understand the law, especially what Pastor Russell said. What he said would not be under oath. It would violate every rule, every phase of the hearsay rule.

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Mr. Sparks: I will change the question.

Q. What did you say to Pastor Russell in reference to the seventh volume?

The Court: How far back was this?

Mr. Sparks: Why, we will take a year prior to his death, on the 31st of October, 1916.

1734 A. You will excuse me, but the form of the question is such that I do not know what is expected of me.

Q. What conversations did you have; what did you say to Pastor Russell in reference to when the seventh volume of the "Studies in the Scriptures" would be published? A. I haven't any knowledge of having discussed that question with him.

Q. At any time? A. Except that I understood it would be the last of the series. I understood that for twenty-two years.

Q. Did you ever have any conversation with Pas-

tor Russell asking him if he was going to write the seventh volume?

Mr. Oeland: The same objection. They are apparently—

Mr. Fuller: If your Honor please, the attitude for this question with respect to this witness is this: The Government charges that this witness wrote this book with the intent of impeding in the Selective Service Law, and that intent is charged against this witness. We deny the existence of that intent at all, and we also claim the existence of a wholly different intent. We contend that every element of a different intent resident in the witness's mind at the time of which we speak—at the time when he wrote this book is extremely material to the question as to whether the intent charged did in fact exist in his mind at all. Upon the question as to whether such an element of a proper intent did exist. It is also our opinion that it is germane as to when that particular element of that proper intent arose in his mind and the sources of that intent.

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The Court: The Court said yesterday explaining that the Government do not claim that there was any felonious intent prior to June 15th, which was not unlawful prior to that time. I am going to allow you to show what counsel contend was prior to that, and what would have a bearing upon the intent after June 15th. Perhaps I am going to let you take that attitude and still hold consistent with that theory throughout the trial.

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Mr. Fuller: Well, now, to go back to the original. It is our theory that if the genesis of the intent which came to be fully formulated in the mind of this witness at the time he wrote

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this book, which thereafter may have been modified in one form or another in the use of the book, can be traced back to a time he had a conversation with Pastor Russell, even if that were ten years ago. We have a right to show that genesis and in the very nature of the factor in this intent we trace it back to the conversations of Pastor Russell, and if a seed for intent were planted in this witness's mind, was planted by means of a conversation with Pastor Russell. We have a right to show that there is no original seed of the intent that was started at that time, and for no other purpose.

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The Court: All conversations he may have had with different persons are entirely inadmissible, what they said.

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Mr. Sparks: We claim that the original intent under the Government's theory is the original intent of publishing this book and was at the same time changed between the time that he started to read it and the time of the passage of the Espionage Act in June. Now, our claim is, if a person plants a seed to raise an apple tree, it will come up an apple tree, and you cannot change it unless you cross something else onto it before it dies. Now, it is the claim of the Government that our intent originally in publishing this book was perfectly all right, nothing criminal about it. Now, somewhere in between the 1st of January, 1917, and the 15th day of June, 1917, we changed our purpose from a good one into a bad one.

The Court: I do not understand that the Government takes the position that there was nothing harmful in the publication of the book, but they take the position that up to June 15th,

it was not illegal for the book to make it more difficult or to hinder or delay the Government in enlisting or recruiting an army. I do not understand that counsel for the Government maintain that would be harmful, notwithstanding it was harmful it was not legal, when it became illegal they continued to sell the book, to circulate the book and write letters to the same effect of the book and then the acts became unlawful. 1741

Mr. Oeland: That is the position of the Government.

Mr. Sparks: But, if there was no army to be raised at all at the time, the original manuscript was written, certainly you cannot read into this book an unlawful attempt, because the war subsequently developed. Now, if there was no war existing on the 1st of March, when the manuscript was finished by Mr. Fisher, certainly the intent could not be to impede the Government in the raising of the army, because there was no necessity of the army at that time. 1742

The Court: That must not be controlling on the question of his intent, because there was no army to be raised at that time. I understand the Government takes the position that the book although the portions of the book that are referred to were harmful to the Government, because the tendency would be to get the military and naval forces in such a frame of mind, if it should become necessary for the Government to have an army, if they start out to educate all the military and naval forces that it is sinful to engage in the war, even if that was done in time of peace, I do not understand the Government takes the position that it would be 1743

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harmless, that it would be exceedingly harmful, but not illegal, because there was common law adequate of the United States. Nothing can be a crime against the United States until Congress has passed a law making it a crime. Congress having failed to make it unlawful to do these things prior to June 15th, why, notwithstanding it was harmful, it was not unlawful.

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Mr. Sparks: But the attitude of the writer, if that construction is placed upon the book, would be quite in harmony with the attitude of the Government itself at that time. That is, they would not increase the size of the army and the intention on the part of the administration, in fact, in Congress itself, hazarded even to increase the military branch of the service.

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Mr. Fuller: If this position of the Government, at any rate, be that the undesirable intent antedated the illegality of the intent at the time the Government passed the statute making the expression of that intent and conduct unlawful, if it antedated, then that proposition becomes highly important in this case to determine whether the thought that they were alleged originally existed as vicious intent and subsequently was expressed as illegal intent. It seems to me that a person who is charged with entertaining malicious and subsequently unlawful attempt is entitled to the fullest latitude in disclosing not only negative, that he did not have that intent, but the affirmative that it expels the other intent. The incident of the wholly different and complete intent utterly inconsistent perhaps with the intent alleged to have been entertained by him by the prosecu-

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tion. The tone of that intent, the development of it for the purpose of giving the jury the material to hear the pros and cons of the claims of the Government and this defendant, to determine what the intent of this defendant was, in fact, at the time of the alleged intent, that the Government alleged became unlawful, and it ought to be permitted to go back to the time when this intent began to hold.

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The Court: Another thing which I think we should have in mind that the Government attempted to command the raising of an army on April 6th by enlistment and that prior to that time they were seeking enlistment in the navy, and prior to the time war was declared, notwithstanding the draft act was not passed until afterwards, the Government had in fact been increasing its naval forces right along. That was done by enlistment voluntarily. Now, if a man starts out to teach the people from whom enlistments must be received that it is unchristianlike, sinful, wicked, to engage in warfare, I hardly think we should say that that was entirely as innocent a purpose as you suggested yesterday in connection with the whole. For, certainly, it would tend to oppose the nation in recruiting for the navy, for the army, for war was declared. Before that time, of course, the state militia was somewhat relied upon by the Government. When a church organization starts out to teach everyone that they must not engage in warfare because it is wicked it is, I think, harmful within the meaning of the words that you have been using, or within the meaning of the case that you called attention to yesterday. That would certainly be in opposition to the Government whether we were at peace or at war.

1749

1750

Clayton J. Woodworth

Mr. Fuller: And all the more important, it seems to me, because of this condition that your Honor refers to, because back to my earliest recollections I have not seen some methods in recruiting engaged in by the United States. It is all the more important, then as to whether the intent that the Government claims actuated at any time the writing or publication of this book, for, in fact, it seizes hold of the mind of this defendant in the writing and the publication of this book.

1751

The Court: What someone said to him, unless it calls for an answer, would be entirely inadmissible, at any rate.

Mr. Fuller: The only purpose is to get the mental effect upon his mind.

The Court: Now, how far you may go into that record is problematical to the Court, and I will exercise it liberally. I think the nicest way is to have him tell if he made some arrangement with Pastor Russell, and not tell the conversation unless that appears necessary.

1752

Q. You make no claim there was any arrangement of that—

Mr. Sparks: We make no claim that there was any arrangement of that kind, if the Court please. We are trying simply to develop what preceded Pastor Russell's death and what was the inception of this witness in reference to this book.

The Court: Now, as I remember the question, the question was, if Pastor Russell had some talk about the seventh volume. Now, of course, Pastor Russell's statements, I would hardly think, would be material, unless he

acted upon them. If he did act upon them, why, they became his arrangements.

Q. Did you have any talk in which you said anything to Pastor Russell in reference to the publication or production of the seventh volume? A. Yes, sir; I made a suggestion to him as long ago as 1897, as my understanding of the meaning of certain portions of the "Book of Revelations," which it was understood at that time would be included in the seventh volume.

Q. Was the seventh volume to deal exclusively with "Revelations" and "Ezekiel"? A. It was to a good deal.

1754

Q. And you made certain suggestions to Pastor Russell in reference to interpretations in "Revelations"? A. Yes; I made certain interpretations and asked his opinion as to those interpretations.

Q. But he died without having published or written the seventh volume? A. Yes, sir.

Q. Do you recall a meeting in Scranton between you, Mr. Fisher and another member of the International Bible Students Association, in which there was a casual talk in reference to the seventh volume? A. I do.

Q. What was that conversation? A. It occurred one evening after I finished work about five-thirty. I went to Mr. Fisher's home, just dropped in for a few minutes.

1755

Q. You were friends at the time, were you? A. Very intimate friends, and have been for a quarter of a century.

Q. You did not go there for the purpose of discussing this book, then? A. No, sir.

Q. Just a casual, friendly visit? A. Yes, sir.

Q. Proceed. A. And while there, the thought came up amongst us. The conversation developed that Pastor Russell had died without writing the seventh

volume, and some reference was made to his death, about the statement that somebody else would have to write, and there was some discussion as to who could write it. I hazarded the suggestion that I thought I understood the "Book of Revelations" pretty well, and while standing in the doorway just a few minutes before I went out, I opened up the "Book of Revelations" and sketched over hastily two of the chapters that had been very difficult of understanding from the time that they were written down to the present time.

1757 Q. Was that the end of the talk with reference to the book? A. Yes, sir; except that I made the remark as I left that I believed that Fisher could write the "Book of Ezekiel," if anybody could.

Q. And that was all there was to that end of it? A. Yes, sir.

Q. Was there any suggestion made about seeking permission from the people in Brooklyn to attempt to write the book? A. No, sir.

1758 Q. How were you first connected with any reference to working on this book, or any part of it? A. I received a copy of a letter written by a third party present at this meeting at Fisher's home, containing a proposed outline of this book. The suggestion was made to the executive committee of the Watch Tower Bible & Tract Society, that it contained some sermons by Pastor Russell and a brief explanation of "Revelations" and "Ezekiel." Within a day or two after that, or two or three days after that, came a similar memorandum to the effect that Fisher and I could go ahead and submit our manuscript for the consideration of the executive committee.

Q. Well, were you permitted or commissioned to write the book, or just receive permission to submit your interpretation and Mr. Fisher's interpretation of the book? A. It was merely a permission.

Q. So the request on their part was just a permission to write an article and submit it? A. That was all.

Q. When did you receive that communication? A. On the morning of December 11th, I believe.

Q. And did you immediately start to work on the book? A. I did, in the same evening.

Q. That is, you started to gather material which you had previously read and written? A. No; the first thing I did was to take the first four verses of "Revelations," Chapter 1, and write out what I regarded as a reasonable explanation of these four verses, incorporating into that everything that appears in the Watch Tower Bible, that is where I commenced. I mentioned previously and had told the matter which I had thought would help to illuminate those verses, and prepared that and sent it down to Brooklyn as a sample of what I would propose would be the method that would be used in the interpretation of the book. 1760

Q. What was the plan of the work, so far as using Pastor Russell's interpretation of "Revelations"? A. The plan was to use everything that he had written that would illuminate any part of the book so far as I could understand would be an illumination of that portion of the book. 1761

Q. Did Pastor Russell—if Pastor Russell had written upon any particular verses, or was his writing to be used exclusively on that? A. With very rare exceptions. There were one or two places when I was preparing the "Berian Bible" comments Pastor Russell wanted me not to give too much importance to his earlier expositions of certain passages, because it is a well-recognized thing among people of our faith that the path of truth becomes wider and wider as we reach the millennial age, and that things could not be so clearly explained forty years ago as they do

now. For example, say, while I used the best judgment in the preparation of these comments, in the back of our Bible there were a few verses, not more than three or four or half a dozen altogether, with which my personal judgment disagreed. What I then thought was the given exposition and I felt at liberty to use my own consecrated judgment as to what the passage means.

Q. So that your part of the work was simply incorporating those parts of Revelations on which Pastor Russell had not written? A. Yes, sir.

1763 Q. And your work was largely to collect together his work and not to do any particular original writings? A. Primarily so.

Q. What part of the work had you completed on January 1st, 1917? A. I laid out for myself a schedule of four verses a day and endeavored to live up to that as far as I could. There are 404 verses in the Book of Revelations and I endeavored to finish that, if it were possible, in 100 days, and regulated my efforts accordingly.

1764 Q. So that you started on the 11th, and about the end of January you had completed eighty-four of the verses? A. Well, whatever the number of days are. Nineteen days, about eighty verses, yes, sir. Of course, that would not hold absolutely. I found some verses much more difficult than others, but the general principle held.

Q. Now, take the first page of book in which any claim has been made that it is objectionable, the paragraph on page 247, which is the 13th verse of the 16th chapter. Can you tell us when that was written? A. Yes, sir.

Q. When? A. It was written in the latter part of the month of February, 1917.

Q. And was the paragraph as it appears in this book on page 247 the same then as it is now? A. Yes, sir.

Q. That, of course, is a matter of common knowledge and fact that we were not at war at that time?

A. Yes, sir.

Q. In writing this book were you writing of its application to the United States in particular? A.

No, sir.

Q. For whose benefit was it being written, so far as you personally were concerned? A. The book was written for all nations and people of the whole earth, not only those now living, but people who will live for a thousand years to come.

Q. The next objectionable passage is at page 289. Have you it there? A. I have not, but I recall the passage, however.

1766

Q. Do you recall what that is, the millions who have perished in the great war have been served in this— A. Yes, sir.

Q. And when was that written? A. That was written about—excuse me just a moment. I will have to figure up the number of verses because I had to live up to that schedule just as well as I knew how. Well, it must have been written early in March.

Q. And those are only two passages occurring in your work that the Government has claimed to be objectionable? A. Yes, sir.

1767

Q. And that passage is in the same words as it was when you finished it in March 1917? A. Yes, sir.

Q. Have you ever been a director of the Watch Tower Bible & Tract Society? A. No, sir.

Q. Or a director or an officer of the People's Pulpit Association? A. No, sir.

Q. Or an officer of the Watch Tower Bible & Tract Society? A. No, sir.

Q. Or of the English corporation which was formed in 1914, the International Bible Association? A. No, sir.

Q. After you had completed your manuscript you gave it to the society, did you? A. Yes, sir.

Q. And after you had parted with all right and title to that manuscript you had no control over the publication of the book itself? A. No, sir.

Q. You had no voice in whether it should be published or not published? A. No, sir.

Q. You had no voice in whether it should be circulated or not? A. No, sir.

Q. Do you know all the defendants in this action, did you prior to the finding of this indictment, know all of the defendants with the exception of DeCecca? A. I knew them all.

Q. Did you know DeCecca? A. Yes, sir.

Q. There has been offered in evidence here certain abstracts of the minute book of the Watch Tower Bible & Tract Society. I will ask you whether you knew anything about the proceedings of the Board of Directors of the Watch Tower Bible & Tract Society, held on or about the 15th of July, 1917? A. I did not.

Q. You did not? A. No, sir.

Q. You were not concerned with the matters that were to come before the Board of Directors at that meeting? A. I was not consulted.

Q. I show you Government's Exhibit 31, and ask you whether you ever saw that paper or a copy of it or any of the action referred to? A. I did not.

Q. Do you know what has been referred to as the Cuminetti letter? A. Only as I heard it in court.

Mr. Oeland: It has been called to my attention that that is not marked in evidence.

The Court: It may be marked in evidence now.

The paper was then received and marked Exhibit 31 in evidence.

Q. What is the answer to my last question? A. No, sir.

Q. Did you ever know that this Exhibit 30, which is a reprint from the Italian letter, was in existence?

A. No, sir.

Q. Do you know what I refer to, that this is a printed copy of what purports to be the Cuminetti trial? A. Only as I heard it referred to in the trial. I know nothing about any of these exhibits except as brought up here.

Q. You volunteer the statement, Mr. Woodworth, that you do not know anything about any of these exhibits. I am going to hand you all the exhibits that the Government has offered in evidence in this case, and ask you to look them over and say whether you know anything about any of them, and if so, the ones that you do know about? A. The only knowledge I have of the following exhibits was obtained in this court room since the court opened—Exhibits 29, 28, 27, 26b, 26a, 25, 12—excuse me, that last should be 24.

1772

Mr. Fuller: 24 instead of 12?

The Witness: Yes; it is marked so many times that I misunderstood. It is marked 12 on one end, but Exhibit 24 on the top is the correct number.

Q. That is the D'Onofrio letter? A. 23, 22, 21a, 21b, 20a and 20b, 19, 18, 17a, 17b, 16a, 16b, 15a, 15b, 11, 7, 6, 5a and 5b.

1773

Q. Is that for identification or in evidence? And the words "for identification" marked on it? A. Yes.

Q. Those are not in evidence? A. 4, 2a, 2b, 2c, 2d, 2e, 2f, 2g, 2h, 2i and 2j.

Q. Those exhibits that you have just incorporated, you knew nothing about until you heard them read in the court after the beginning of this trial? A. That is correct.

1774

Clayton J. Woodworth

Q. Are any of those exhibits attached to the indictment, and did you learn of them in connection with the indictment in any way? A. I knew there were some exhibits attached to the indictment, but as I have had nothing to do with any of these matters I did not read them.

Q. You did not read them? A. No, sir.

Q. Did you have anything to do with the formation of any letters in the batch that you have just specified? A. I did not.

1775 Q. Were you consulted in any way about writing them? A. I was not.

Q. Was your opinion sought as to any question of policy with reference to putting them out? A. No, sir.

1776 Q. Aside from the language and explanations of Revelations, as contained in "The Finished Mystery," and the reading of the proof, other than that have you had anything to do with the publication, distribution or circulation of this book, or anything to do in any way with the managing of the corporations known as the Watch Tower Bible & Tract Society and the People's Pulpit Society? A. No, sir; except in so far as the distribution of books in Scranton, Pennsylvania, was concerned.

Q. That is, with the exception of the distribution of some copies that were given to you of a complimentary nature? A. Yes, and some other copies.

Q. And those copies that you bought, you mean? A. No, sir.

Q. Now, there are some other exhibits that you have in your hand; will you say what you know about them? A. These are two letters that I acknowledge having received, Exhibit 9 and Exhibit 10.

Q. They are personal letters? A. Yes, sir.

Q. And those were letters taken from your possession personally? A. Yes, sir.

Q. Leave those aside. Those are not in evidence.

A. The stamp is a poor stamp or poorly put on. They are for identification, though.

Q. What are the remaining exhibits? A. Exhibit No. 12 for identification.

Q. Lay that aside, that is not in evidence? A. That is Exhibit 13.

Q. And what is that? A. For identification.

Q. Lay that aside? A. Exhibit 14.

Q. Did you ever see or did you have anything to do with the paper that you have in your hand, Government's Exhibit 14? A. No, sir.

Q. You did not write any part of that "Bible Students' Monthly"? A. None whatever.

Q. You did not know it was going to be published? A. No, sir.

Q. You did not know that it was published? A. No, sir.

Q. Lay that aside and take the next, please. A. Exhibit No. 26c for identification.

Q. What is the date of that? A. March 1st, 1917, of the Watch Tower.

Q. That is for identification? Lay it aside. A. Yes, sir.

Q. While you were writing your part of "The Finished Mystery" did you have any conference with Mr. Rutherford? A. Yes, sir.

Q. When did you see him, if you can recall? A. I saw him on two occasions, to the best of my knowledge and belief, December 15th, about.

Q. December 15th, 1916? A. Yes, sir.

Q. What is the other date? A. In March, 1917.

Q. Where did you see him on December 15, 1916? A. In his office, or his room, at 122 Columbia Heights.

Q. Did you have any conversation with him in reference to the book? A. I was passing through New York on my way to Holyoke, Massachusetts,

on a business trip, and I stopped in to see whether the four verses I had submitted were acceptable as to general form and manner of treatment for the balance of the work on the Book of Revelations.

Q. And is that all? A. Yes, sir.

Q. Did you have any conversation with him as to the policy of the association, the Watch Tower or the People's Pulpit? A. None at all.

Q. Or the purpose and object of writing this book? A. No, sir.

1781

Q. Did he say anything to you about respecting this Government might get into war at some future time and they wanted some book to be out which would be against the military policy of the country? A. It was never thought of.

Q. You say there was no such talk? A. No, sir; it was never mentioned.

Q. On March 15th, you saw him next? A. Some time in March.

Q. And where was that? A. At the railroad station in Scranton.

Q. And where was he going, if you know? A. I would not say he was going away. I think on one of his Sunday trips.

1782

Q. And you saw him for how long? A. I could not say; I think just for a few minutes.

Q. And what was the subject-matter of that conversation with him? A. Just a matter of Christian meetings, that was all.

Q. No discussion about this book in any way? A. Not that I recall.

Q. Have you at any time down to the present time ever discussed with Mr. Rutherford the purpose of this book, or what effect it might have upon the United States Government in raising any military forces? A. No, sir.

Q. Has any person, directly or indirectly, ever sug-

gested to you that the object of writing that book was for the purpose of obstructing the United States Government in its war policy? A. No, sir.

Q. Your object in writing this book is what? A. My object in writing this book was to explain the Book of Revelations exactly in harmony with the context as I understood it.

Q. Did any person ever suggest to you that you put anything, that you put in any part of that book any special matter which might, directly or indirectly, or in the slightest degree, involve any person not to accept military service? A. No, sir; and I would greatly have resented it if they had. 1784

Q. From the time that you started to work on this book down to the present time, how often had you seen Mr. Van Amburgh? A. From the time I started on it down until April 1st, 1917, I did not see him at all, so far as I know—so far as I can recall.

Q. You did not see him from what date? A. From the time I started on the work until after I finished my portion of it, I did not see him at all.

Q. And did you ever have any written communication with him with reference to the book? A. No, sir.

Q. I omitted to ask you, I think, in reference to Mr. Rutherford, if you ever had any written communication, writing, telegrams or anything of that kind, with reference to the book? A. Not while it was in preparation, no, sir. 1785

Q. On what occasion did you see Mr. Van Amburgh, on April 1st, 1917? A. I came down to attend the convention. I was in New York City on April 1st, and had a few hours and spent it visiting with the friends in the Tabernacle and in the Bethel, as is my custom, when I have a little time and am down this way.

Q. And the question of this book was not dis-

1786

Clayton J. Woodworth

cussed on this occasion? A. It was. It was not brought up by me, however.

Q. What was the substance of the conversation?

A. Mr. Van Amburgh criticized one of the explanations I had made in the book, I am not sure but two of them. One, I know, he criticized. And I defended my explanation briefly.

Q. Those two incidents that he criticised were not page 247 or the other page that has been made the subject of Government disapproval? A. No, sir; the passage was with regard to the distance from Scranton to Bethel, and with regard to the railway train and locomotive, which has already been brought up here in this court.

1787

Q. And from that time, April 1st, down to what period did you next see Mr. Van Amburgh? A. I think the next time I saw him was when the book was formally put out, July 17, 1917, at which time I saw—I was a guest at the Bethel Home.

Q. Was there any discussion at that time, which was after the declaration of war, after the passage of the Selective Draft Service, and after the passage of the Espionage Act, as this book contained anything to impede the Selective Service Act? A. No, sir.

1788

Q. Or that any part of it would have any effect upon affecting or discouraging persons within the draft ages from taking military service? A. No, sir.

Q. When did you first learn that there was any part of this book objectionable to the Government?

Mr. Oeland: That is objected to as irrelevant, incompetent and immaterial.

The Court: I am inclined to think this is immaterial, but I will allow it. You do not claim it is necessary for the Government to point out objections, do you?

Mr. Sparks: No, we claim it is material on the question of this man's intent.

The Court: I will allow it, whether it is material or not.

A. It was on a Monday in the latter part of February, 1918, a clipping was shown to me that some of the ones who distributed the book in Canada had been arrested in Toronto.

Q. Did that clipping advise you in anyway—

The Court: That relates to foreign lands.

Mr. Sparks: Yes, sir; my question was not directed to that, but Mr. Woodworth seems to be going back to the earliest date.

1790

The Court: Well, let it stand.

Q. My question was with reference to the Government of the United States, Mr. Woodworth? A. I beg your pardon. I would have answered differently, had I known it.

Q. When was that? A. That was on Sunday afternoon, March 3rd, if this is the way the calendar runs.

Q. 1918? A. Yes, sir.

Q. How did you get that information, through what sources? A. A neighbor came to my house with a copy of the "Scrantonian" containing an article there about six inches long.

1791

The Court: We won't go into what the article stated, because the article itself would be the best evidence. He may state that it came to his knowledge by seeing that article. The article probably would not be admissible anyhow. That did not purport to be anything from anyone in authority on the part of the Government. That was some comment of a newspaper man.

The Witness: Well, it told of an arrest of one or two. One, I think, but I am not certain as to that, one or two persons, for selling "The Finished Mys-

tery," and cited the paragraph on page 247 in full as the cause of his arrest.

Q. Up to that time did you know that there was anything objectionable in this book? A. No, sir.

(The witness was excused so that character witnesses might be heard.)

WILLIAM A. AVERY, a witness called on behalf of the defendants, was duly sworn and testified as follows:

Direct-examination by Mr. Sparks:

Q. Do you know Mr. Woodworth? A. Yes, sir.

Q. How long have you known him? A. About ten years.

Q. Do you know what his general reputation is in Scranton? A. Yes, sir.

Q. You have known where he lives? A. Yes, sir.

Q. Do you know what his general reputation in Scranton is for truth and veracity? A. I should say, the best.

1794 Q. Do you know what his general reputation is as a law-abiding citizen? A. The best.

Q. Do you know the reputation that he bears for general good character? A. I should say the best.

Q. You also know Mr. Fisher? A. Yes, sir.

Q. And do you know his general reputation in the three respects I just asked you, in respect to Mr. Woodworth? A. I think I do.

Q. And what are they in Scranton, as to Mr. Fisher? A. I should say, the best.

Q. How long have you known Mr. Fisher? A. That I can't say. I should say about eight or nine years.

Q. What is your position, Mr. Avery? A. I am a manufacturer.

Q. In Scranton? A. Yes, sir.

No cross-examination.

BENJAMIN F. DUNN, a witness for the defendant, was duly sworn and testified as follows:

Direct-examination by Mr. Sparks:

Q. Mr. Dunn, where do you live? A. Scranton, Pa. 1796

Q. How long have you lived there? A. About thirty years.

Q. What is your business? A. Contractor.

Q. Do you know Mr. Woodworth? A. Yes, sir.

Q. You have known him how many years? A. About fifteen or sixteen years, I should think—some-where along there.

Q. And during all that time have you known what his general reputation for truth and veracity is in his community where he lives? A. There is none better.

Q. Do you know his general reputation as a law-abiding citizen in that town? A. First rate. 1797

Q. What is it? A. Good; nothing better.

Q. And do you know his general reputation that he bears for good character? A. Good character.

Q. I cannot hear you? A. Good; yes, nothing better.

CROSS-EXAMINATION by Mr. Oeland:

Q. Did you read the book, Mr. Dunn? A. No, sir.

1798

*George M. DeWitt**RE-DIRECT EXAMINATION by Mr. Sparks:*

Q. You just know him as a neighbor and citizen of Scranton? A. I lived near him for ten years.

Q. And come in contact with him only in that way? A. Yes, sir.

GEORGE M. DEWITT, a witness called on behalf of the defendants, was duly sworn and testified as follows:

1799

Direct-examination by Mr. Sparks:

Q. What is your business? A. Physician.

Q. And duly licensed to practice in the State of Pennsylvania? A. Yes, sir.

Q. And have been for how many years? A. Seventeen.

Q. In Scranton? A. Yes, sir.

Q. Do you know Mr. Fisher? A. I do.

Q. And Mr. Woodworth? A. Yes, sir.

Q. And how long have you known him? A. Seventeen years.

1800 Q. Do you know what his general reputation for truth and veracity is in Scranton? A. Good.

Q. Do you know what his general reputation as a law-abiding citizen is? A. Good.

Q. And do you know what his reputation for general good character is? A. Very good.

No cross-examination.

WALTER L. MATTHEWS, a witness called on behalf of the defendants, was duly sworn and testified as follows:

Direct-examination by Mr. Sparks:

Q. What is your business? A. Wholesale flour and grain.

Q. And where are you in business? A. Scranton, Pa.

Q. Do you know Mr. Woodworth? A. I do.

Q. And how long have you known him? A. Ten or eleven years.

1802

Q. In Scranton? A. Yes, sir.

Q. During all that time? A. Well, he was not in Scranton all that time.

Q. But he has lived there during the period that you have known him? A. Yes, sir.

Q. Do you know his general reputation in the community for truth and veracity? A. I do.

Q. What is it? A. Very good.

Q. Do you know his general reputation as a law-abiding citizen? A. Yes, sir.

Q. What is it? A. Very good.

Q. Do you know his general reputation for general good character? A. Yes, sir.

1803

Q. What is that? A. Very good.

Q. Do you come in contact with Mr. Woodworth in business? A. Yes, sir; he was in our employ for two years.

Q. Do you know of his work in connection with the Board of Trade in Scranton? A. No.

No cross-examination.

At 12:55 P. M. a recess was taken until 2:15 P. M.

1804

Clayton J. Woodworth

After recess.

June 12, 1918.

CLAYTON J. WOODWORTH, being recalled, further testified:

Direct-examination continued by Mr. Sparks:

Q. I show you a letter dated December 11, 1916, and ask you whether you wrote that letter, Mr. Woodworth (showing)? A. I did.

1805

Q. And did you send it to the person to whom it is addressed? A. I did.

Q. Do you know that it was received by her? A. It must have been.

Mr. Sparks: I offer the letter in evidence.

Mr. Oeland: We object to it as incompetent, irrelevant and immaterial at this time.

The Court: When was it written?

Mr. Sparks: December 11, 1916. The tendency of the letter is to show that it is a confirmation, you might say, of the oral testimony that this witness and Mr. Fisher both gave in reference to the inception of the work.

1806

Mr. Oeland: Well, I withdraw my objection.

Letter referred to received in evidence and marked Defendants' Exhibit E.

Q. This letter was written and sent on the date that it bears date? A. Yea, sir.

(Read to the jury.)

CROSS-EXAMINATION by Mr. Oeland:

Q. So away back in 1916, you did have in contemplation the European War? A. Oh, yes, sir;

everybody had it in contemplation in 1916. It was a fact.

Q. This publication was prepared with a view to some part it might play in the war? A. No.

Q. What did you mean— A. The Scriptures seemed to intimate that the Seventh Volume of Scripture studies would antedate the end of the war.

Q. Did you prepare it with any haste, so you would get it published before the war was over? A. Well, I was eager to perform my part of the Lord's will, as I saw it, and mapped out what I regarded as a reasonable day's work for each day.

1808

Q. Wasn't it prepared in considerable haste so it might be published before the war was over? A. Everything I have to do is done as promptly and as well as I know how to do it. I did not hurry the book unduly. I did as good a job as I could—

Q. I ask you if it was prepared in any haste—"Other spirits seem to indicate that the end of the European War must follow this book." Did you think that the war would end as soon as you got that published? A. I anticipated the war would end about the first of August, 1917, after I had made a study up as far as the sixteenth chapter of Revelations.

Q. And did you want to get your book completed before the war was over? A. Of course.

1809

Q. Did you think that it would command a greater sale if it was completed before the war was over? A. I judged if the end of the war would follow shortly after its publication that it would attract the attention of Bible students everywhere as being a correct interpretation of the Book of Revelations.

Q. And you had an idea that it should be speedily gotten together and published as early as possible in 1917; is that right? A. I had an idea as soon as the matter could be gotten into correct shape—

Q. Your thought was to get it on the market before the war was over? A. Yes, sir.

Q. That that would enhance its sale? A. Yes, sir.

Q. Now, did I understand you to say this morning that in its preparation you had two interviews with Mr. Rutherford, one in December, 1916, and one in April, 1917? Am I correct in that? A. One in March, 1917.

Q. Didn't you have another interview with him in addition to that? A. Yes, sir; when I came down to Brooklyn on the 31st of March and stayed over to the 1st of April.

1811 Q. Didn't you have another one still? A. I may have had one more.

Q. Didn't you have one at Hammond—Hammond, Indiana, where you were reading the proof of the book before it was put on the market? A. The book was already made up when Mr. Rutherford came to Hammond, Indiana, and so we just received that day the last chapter from Mr. Fisher, and I only had an opportunity to scan this book—

Q. You did see it at Hammond, Indiana, before the book was put on the market? A. Yes, sir.

Q. How long were you there? A. Six working days.

1812 Q. What were you doing? A. I was patching up the book and bringing the chapters so they would end at the bottom of the page.

Q. You were proofreading it? A. Yes, sir.

Q. And correcting it? A. Yes, sir.

Q. Going over it carefully? A. Going over it as carefully as a man could do six hundred and eight pages in a week.

Q. How came Rutherford to come there with you? A. I could not say. That would be a question you would have to ask him.

Q. He just happened there while you were there? A. He was away on a speaking trip somewhere, and

came through Hammond; either he was on his way or on his way returning.

Q. Just happened to stop while you were there?
A. He was there while I was there.

Q. Who else was there with you? A. Mr. Hudgings.

Q. Who else? A. No, one else.

Q. Mr. Martin, while you were there? A. No, sir.

Q. Mr. MacMillan there while you were there? A. No, sir.

Q. Did Mr. Hudgings come with Mr. Rutherford? 1814
A. He came with me.

Q. Where did you join him or he join you? A. He came to Scranton, Pennsylvania, for me and I joined him there, and we went on together to Hammond.

Q. He joined you for the purpose of going out there and helping to read the proof of the book? A. Yes, sir.

Q. So on that occasion you scanned it very carefully? A. As much as I could in a week's time.

Q. You knew then that the United States was at war? A. Yes, sir.

Q. No question about that? A. None at all.

Q. And you reread all that you had previously written at that time carefully? A. Yes, sir.

Q. Now, as you prepared your manuscript, what did you do with it? A. As the manuscript was prepared, generally a chapter at a time, I enclosed it to Mrs. Seibert at the Hotel Margaret.

Q. Who was she? She is not connected with the Watch Tower Bible & Tract Society? A. She has been interested in this movement for twenty-one years.

Q. I ask you if she is connected in any way as an officer with any of the three corporations or societies?
A. Not to my knowledge.

1816

Clayton J. Woodworth

Q. Your counsel has offered in evidence here a notice to send to Mrs. Siebert any clippings as secretary. What was she secretary of? A. Secretary of an imaginary board of editorship, or authorship, for this book.

1817

Q. (Reading.) "Please address all communications"—this is Defendants' Exhibit C in evidence—"Please address all communications to Mrs. G. W. Siebert, Secretary, Hotel Margaret, Brooklyn, New York." What was she secretary of? A. I did not appoint her secretary. The Labor Tribune was the first—

Q. Who was she working with in reference to the publication of this book? A. With me.

Q. Who else? A. She was in communication with the Reverend Doctor.

Q. Why did you insert that in the "Labor Tribune" and not in the "Watch Tower"? A. I have no control over the "Watch Tower."

Q. It was at your suggestion it was inserted in the "Labor Tribune," wasn't it? A. Yes, sir.

1818

Q. And you told the jury you didn't know that Mrs. Siebert ever was connected officially with any one of the three corporations? A. I don't know that she is.

Q. You don't know of what particular organization she was acting as secretary? A. I have explained that to you.

Q. I ask you if you know of any organization? A. I don't know; I do not.

Q. Who put the ad. in the paper that has been offered in evidence? A. I did not. I do not know. I presume she did.

Q. When did you know that the Watch Tower was interested in the publication of this work? A. June 25 or 24, 1917.

Q. Up to that time you hadn't known that the

Watch Tower was interested in it? A. The Saturday before that.

Q. Was that the first time? A. Mr. Hudgings came to my house on Saturday, June—whatever the calendar shows for the year 1917, June 23 or 24, and I then understood that the contract for the book had been let and that they were going ahead with the printing definitely.

Q. Didn't you know in any of these conversations with Rutherford in December, 1916, or March, 1917, that the Watch Tower was interested in this publication? A. I knew if it was ever published it would be published by them, surely. 1820

Q. You knew that long before you sent in your manuscript that if it were ever published it would be published by The Watch Tower Bible & Tract Society? A. I hoped and expected that it would be published by The Watch Tower Bible & Tract Society.

Q. When did you first learn for a certainty that it was going to be published? A. I think I never knew that positively until Mr. Hudgings came to my house—I received a telegram that he was coming, and asking me to go with him to Hammond.

Q. You then knew that it was to be published? A. Yes, sir. 1821

Q. And you expected a large distribution of the book? A. Yes, sir.

Q. And you expected the distribution to be made by the officers of The Watch Tower Bible & Tract Society? A. I expected that distribution to continue for a thousand years.

Q. But you expected a large distribution of the book? A. Ultimately, yes, sir.

Q. You have just told me that it was printed and prepared with a view to a speedy sale and extensive distribution because of the interest in the European War. A. That is your statement of the matter.

1822

Clayton J. Woodworth

Q. Am I not correct? I do not wish to do you an injustice. A. You draw an inference that is not justified by the facts.

Q. Didn't you just tell the jury that you prepared it and wanted it prepared early so that you could make a distribution before the war was over, and you thought that that would add to its sale? A. That was an item, a small item, in connection with the preparation.

Q. That was a small item? A. Yes, sir.

1823 Q. When you did learn definitely from Mr. Hudgings that it was to be published you went with him out there to read the proof? A. Yes, sir.

Q. Who wrote the preface to the book? A. Mr. Rutherford.

Q. When? A. It came with the manuscript. I do not know exactly when it was written.

Q. It came with the manuscript? A. Yes.

Q. Where did you first see the manuscript? A. It was with the manuscript that we took with us to Hammond, Indiana—no, I am mistaken about that, it was at Hammond when we got out there. They already had it.

1824 Q. Did you know that Mr. Hudgings was going to copyright it in the name of the People's Pulpit Association? A. He told me he was going to.

Q. He did it with your consent? A. My consent was not a factor in the matter at all. I had nothing to do with it.

Q. You didn't object to it? A. No.

Q. You knew in the preface you were held out as the author of it? A. I was mentioned as having to do with its compilation.

Q. What you wrote you expected to be read? A. Yes, sir.

Q. And you wanted the people who read it to believe it? A. Yes, sir.

Q. And you wanted thousands to read it, and wh - ever should read it to believe it and follow the course of conduct laid down in the book? A. To the extent that it is in harmony with the Lord's will, I would be glad if everybody in the world would follow it.

Q. Did you expect them to follow the instructions of the doctrine when they believed it? Did you expect them to act upon it and follow it? A. The book is not written as a doctrinal book. The book is written as an explantation of the Book of Revelations and Ezekiel. I expected them to accept such comfort and encouragement of heart from those explanations as the explanations themselves justified.

1826

Q. Did you expect them to read it and believe it? A. I have already answered the question.

Q. Did you intend that they should follow it? A. If they saw fit to do so, yes, sir.

Q. You put no restrictions as to whom it should be circulated or when it should be circulated? A. No, sir.

Q. And you intended that it should be circulated? A. Hoped that it would be.

Q. And you intended that it should be read and believed and be followed? A. And it will be, too.

Q. I don't want any of your promises here, Mr. Witness. A. This is an examination of a whole matter—

1827

Q. You read this book very carefully after it was printed, didn't you? A. Yes, sir.

Q. And changed some of it, didn't you? A. A little

Q. Take your book, Exhibit 3b, and turn to page 268. Now, read your prophecy as to that portion of the Bible, where you begin with the words: "Is not yet come"; your construction of that. A. Our explanation of this—

Q. I ask you to read it after the words: "Is not yet come." A. In the first edition, in the 75,000 edition, it reads this way: "Is not yet come, but is due."

1828

Clayton J. Woodworth

Q. That is quoted from the Bible? A. Yes, sir, a portion of Revelation, 17:10, and I put my exposition: "But is due to make its appearance at the close of the war, some time about October 1st, 1917."

Q. The war didn't come to a close in October, 1917, did it? A. No, sir.

Q. Read your exposition in a later edition. A. It didn't come. In the 85,000 edition the words are changed to read this way: "Is not yet come, but is due to make its appearance with the close of the war, probably in the year 1918."

1829

Q. In other words, if your prophecy did not turn out right, you changed the words of the book, is that right? A. I have an explanation to offer.

Q. Is that correct? A. That is what I did do.

Q. In other words, the first volume, or first issues you had prophesied or written that it would come to an end, or is due to make its appearance with the close of the war, some time about October 1st, 1917? A. Yes, sir.

Q. But as it didn't come to a conclusion then you changed the prophecy, or whatever you might call it, so as to make it in 1918? A. I saw some reason for making the change when the war failed to come to an end in 1917.

1830

Q. The prophecy was past, and it was time to make a new one, is that correct? A. If you ever studied the Bible you would know that is not correct.

Q. So then you read this book with a great deal of care as late as the fall of 1917? A. I went over the book in the fall of 1917.

Q. And made corrections? A. Yes, sir.

Q. And then you prophesied then, the last time, that it would be in the spring of 1918, didn't you? A. Yes, sir.

Q. And that missed? A. Yes, sir.

Q. But if, as you had prophesied, the war would come to an end in 1917, then you would have said, "I told you so"? A. Would you have believed me?

Q. No, not a bit. What I was getting at was, I wanted to get at the care with which you read the book and reread it. Now, Mr. Sparks asked you about the objectionable page 247, the words: "Come out of the mouth of the dragon." Mr. Russell didn't write that at all? A. That was written by St. John the Revelator, about 2,000 years ago.

Q. I was strongly of the opinion that St. John wrote the Revelation before you told me. I gave you that to identify it. Now, the succeeding part of it Russell did not write? A. No, sir.

1832

Q. You wrote this part: "Standing opposite to these Satan has placed three great untruths, human immortality, the antichrist, and a certain delusion, which is best described by the word patriotism, but which is in reality murder, the spirit of the very devil." Now, that was not gathered from Mr. Russell, but was your own composition? A. Yes, sir.

Q. You said that you wrote that about February, 1917? A. I wrote that the latter part of February, 1917.

Q. Do you contend that the balance of these quotations were inserted in here in February, 1918? A. No, sir.

1833

Q. 1917? A. No, sir.

Q. So when you answered Mr. Sparks you just restricted yourself to that part of it? A. I restricted myself to what was asked of me.

Q. This article that you incorporated in here from Jefferson, that was written away back in 1909, wasn't it? A. Yes, sir.

Q. And you changed that, didn't you? A. Very little.

Q. Did you change it? A. Yes, sir.

1834

Clayton J. Woodworth

Q. You inserted it in this book as a quotation from Jefferson after you had changed it? A. I would like to explain—

By the Court:

Q. Did you do that? A. I did.

By Mr. Oeland:

1835

Q. In other words, where you think Jefferson's words were strong enough to suit your purpose you still quoted it and published it as a quotation from Jefferson? A. That is not true.

Q. (Reading.) "Bereft of reason are the nations by Satan's ingenious and terrible final beclouding of the minds of men." A. I supposed that was Mr. Jefferson's writing. I have no way of knowing that it was not.

Q. You know that it is not Jefferson's writing? A. That was a headline in the "Watch Tower," and I supposed it was a part of Mr. Jefferson's article.

Q. And it is printed in that book there as a part of Jefferson's article? A. Yes, sir, it should not have been.

1836

Q. It should not have been? A. That one sentence should not have been in there.

Q. When did you find it out? A. Only since I got into trouble.

Q. You didn't take the pains to read the article that you were quoting from? A. I copied that, or rather inserted it from "Zion's Watch Tower"; it was pasted in my manuscript.

Q. And you took it from the published article in the "Zion's Watch Tower"? A. Yes, sir.

Q. And you knew that the original article was cut down from a thirteen page article in the magazine to the few pages here? A. Yes, sir.

Q. Did you attempt to find out whether you were

giving the true meaning of the article published by Jefferson? A. I went over it with what care I could and the time I had.

Q. Were you pressed for time? A. I was working eight hours a day for a worldly employer at the time I was working on this book.

Q. Were you pressed for time to get this book out? A. Only pressure such as I brought to bear upon myself to carry on whatever I was doing for the Lord, with due diligence.

Q. Didn't you anticipate, in the hurry to get this book out, that the United States might declare war at any time, and you wanted to get this published before it did declare war? A. No, sir, that didn't enter into the matter at all.

1838

Q. Did you ever know that Jefferson's article was addressed and delivered at a peace conference away back in 1909? A. I believe it is stated so in the "Watch Tower," from which it is copied.

Q. But you don't state anywhere in the book that was addressed and delivered at a peace conference away back in 1909? A. Yes, sir, the excerpt shows it was taken from the "Tower" for 1909, page 79.

Q. But it no way shows here in this book that that was an address delivered by him at a peace conference, does it? A. No, sir.

1839

Q. "There are demon suggestions which obtain so firm a grip upon the mind that it is difficult to banish them." That is not a quotation from Jefferson? A. I notice in comparing this the other day, that somebody has altered a couple of words there. Instead of "demon suggestions"—my attorney has the pamphlet of Mr. Jefferson. I can't tell you just exactly how it did read.

Q. Wasn't it "there are obsessions which obtain so firm a grip"? A. Yes, sir.

1840

Clayton J. Woodworth

Q. And in place of that it is published here, "There are demon suggestions"? A. Yes, sir.

Q. The words "demon suggestions" are added to the Jefferson article? A. Yes, sir, are substituted for the word "obsession."

Q. There is nothing in the book to show that that is a substitution by you or by the original author?

A. No, sir, so far as I know, I did not do that. I do not know whose work that was.

By the Court:

1841 Q. Have you made any attempt to find out who did that? A. It is only since the trial began I had opportunity to make any investigation at all. I have not made any attempt to find who altered these words.

Q. I asked you, I believe, about this sentence: "Be-reft of reason are the nations by Satan's ingenious and terrible and final beclouding of the minds of men." I asked you about that. A. Yes, sir.

Q. And you said that that was not part of the Jefferson writing? A. That was a heading in the "Watch Tower," and I misunderstood that as being a part of the article itself.

1842 Q. When did you incorporate in your book here this article from Holmes? A. Sometime in the month of April, 1917.

Q. What time in April, 1917? A. The article was drawn to my attention by a stenographer in the office where I worked in Scranton, and she had seen this article and it impressed her very much and she brought it in. The sermon was delivered by Dr. Holmes on April 5.

Q. I ask you when you inserted it? A. It must have been about April 10, because this apparently took some time to print it.

Q. Then it was after a declaration by the Government that a state of war exists between the United

States and the Imperial German Government? A. Yes, sir.

Q. That you inserted that in this book? A. Yes, sir.

Q. What is that part?

Mr. Oeland: It is quite a long article.

By Mr. Oeland:

Q. It winds up—have you read where it discusses the reasons why the United States went into the war?

A. Dr. Holmes discusses that in this article.

Q. You read it before you put that in here? A. Yes, sir.

1844

Q. That was not then a prophecy? A. No.

Q. You did not insert that as one of your prophecies in here? A. I don't make prophecies. I attempt to explain prophecies.

Q. You were not seeking to explain any prophecy when you put in this article of Holmes? A. Yes, sir, I was.

Q. What particular part of the prophecy were you trying to illustrate by this language: "The war itself is wrong. Its prosecution will be a crime. There is not a question raised, an issue involved, a cause at stake, which is worth the life of one bluejacket on the sea or one khaki coat in the trenches." What particular part of the prophecy were you trying to illustrate by that? A. These passages we have been referring to here are comments upon Revelation, sixteenth chapter, thirteenth to fourteenth verses, which reads this way: "And I saw three unclean spirits like frogs come out of the mouth of the dragon, and out of the mouth of the beast, and out of the mouth of the false prophet.

1845

"For they are the spirits of devils, working miracles, which go forth unto the kings of the earth and of the whole world, to gather them to the battle of that great day of God Almighty."

1846

Clayton J. Woodworth

I understand that this is the coupling together of the nations to the battle of the great day of God Almighty—it has actually and scripturally taken place, and the Scripture that I have just quoted is an explanation from God's standpoint of how it is that these nations are coupled together. They are coupled together by three unclean spirits, one of which emanates from the mouth of the dragon, one from the false prophet, and one from the beast. For further particulars, please see the book itself.

1847

Q. I want to know what particular doctrine you had in mind in saying that the prosecution of the war by the United States was a crime? A. I refer to that particular portion of the prophecy which speaks of one of these unclean spirits emanating from the mouth of the dragon.

Q. Did all unclean spirits come out of the dragon? A. I don't think so. I think that one of these came from the mouth of the dragon.

Q. The Bible says they all came out. A. I shall be glad to consider your explanation and discuss it with you.

1848

Q. Which unclean spirit did you think was here in making and causing this trouble? A. It is an unclean spirit associated with the dragon which undoubtedly is having its effect in gathering the whole world together into this great conflict in which the present institutions are to pass away and the Lord's empire is to be established.

Q. I want to know which is the unclean spirit which has caused this war, that you think has caused the war? A. This unclean spirit is particularly represented in the teachings which have flooded Germany for the past forty years—

Q. I ask you what unclean spirit in the things you had in mind, when you said caused this war? A. This unclean spirit is all over the world.

Q. I am speaking about the one that was applied to us? A. Well, there is an illustration in the mind of Mr. Holmes here of this unclean spirit here in this country—it is simply put in as collateral evidence to back up the explanation in the original paragraph on page 247.

Q. When you wrote that, that the war itself is wrong, its prosecution will be a crime, you meant that to be believed and to be read by all the people that got your book? A. Yes, sir, I meant that Dr. Holmes said that.

Q. You put it in your book, didn't you? A. Yes, sir. 1850

Q. And adopted it? A. I put it in my book.

Q. You put your O K on it when you circulated it? A. I supposed that Dr. Holmes was convinced of the sincerity of it.

Q. Were you? A. It seemed reasonable to me.

Q. And did you wish that the people should read that and believe that the prosecution of the war would be a crime? A. A crime as explained at first—a crime as illustrated by the unclean spirit which itself came out of the dragon. That is, that the governments, many of them of the world, have at various times engaged in war unjustly, otherwise we wouldn't have had any war; one side of every war must have been unjust. 1851

Q. Did you believe when you wrote that: "Its prosecution will be a crime"?

Mr. Sparks: I object to the form of the question.

Objection overruled.

Q. When you published it?

The Court: It is proper to ask him his belief when he wrote it and when he printed it, between the time and all times.

1852

Clayton J. Woodworth

A. I put that in the book, because Dr. Holmes had published this pamphlet. So far as I knew, they had been circulated, and he was expressing his opinion there as to the impropriety of alleged Christians participating in the war.

Q. Did you believe when you wrote that, "Its prosecution will be a crime? A. I rather had the thought of putting the responsibility of that on to Dr. Holmes.

Q. What did you believe about that—any belief?

A. I consented to it.

1853

By the Court:

Q. You believed it? A. I consented to its principle, or I wouldn't have put it into the book.

Q. You wanted everybody else to believe it—the more who believed it the better it would suit you? A. Only so far as making a suitable explanation of this Book of Revelations, the sixteenth chapter.

By Mr. Oeland:

Q. After you had carefully read that, after you knew it was to be published and circulated by The Watch Tower Bible & Tract Society, you didn't change it, or seek to change it? A. No, sir.

1854

Q. You knew it was going to be distributed all over the United States? A. Yes, sir.

Q. And you expected it to be read all over the United States? A. Yes, sir.

Q. And you expected to have its influence on the public who did read it? A. Yes, sir.

Q. And you intended it to have its influence on the public who did read it? A. I think you are pressing this point unduly.

The Court: No, I think not.

By Mr. Oeland.

Q. You intended the public to believe that the prosecution of this war was a crime? A. Well, as I have explained, when I was questioned on this in Scranton, Pennsylvania—

The Court: Never mind about Scranton, Pennsylvania. Just answer the question asked you now.

The Witness: I think the situation has changed a little from what it was when we started on this.

By Mr. Oeland:

1856

Q. When did you read it last? A. I have not made a full reading of the book since sometime in the fall of last year.

Q. What time in the fall of last year? A. About October.

Q. You knew then that it was to be circulated? A. Yes, sir.

Q. You were circulating it yourself? A. To a limited extent.

Q. What was the extent of your circulation? A. I received 100 copies of the book for my own personal use.

Q. What did you do with them? A. Gave them away and sold them.

1857

Q. And then you said you had to do with some more besides the 100 copies? A. Yes, sir.

Q. How many more did you handle? A. I didn't personally handle any more at all.

Q. What did you do in reference to some more copies? A. I was requested by the colporteur working in Scranton and vicinity to give them such books and assistance as I could.

Q. Who instructed you to do that? A. The general instructions came from The Watch Tower Bible & Tract Society.

1858

Clayton J. Woodward

Q. Who sent you the instructions? A. The colporteur department.

Q. Who was at the head of that department? A. McDonald.

Q. When did you sell your last volume? A. I could not tell you exactly. I think in October.

Q. Did you distribute any after October, 1917? A. No, sir, not so far as I know.

1859

Q. At that time, when you were distributing those, did you believe that the prosecution of the war was a crime? A. Well, I can answer it as well as I can. I rather put the responsibility of that upon Dr. Holmes.

Q. What your belief was, that is a question? A. I don't like to say that I did believe it.

By the Court:

Q. You may not like to say it, but what was the fact about it? A. Well, I didn't believe that.

By Mr. Oeland:

Q. Then, if you did not believe it, why were you circulating it? A. Well, this was a statement of reason, which had originally animated the United States Government in going into this war.

1860 Q. The United States Government had been in it ever since April 7, 1917, hadn't they? A. That is why I saw that before we got into it the more unhappy this quotation appears to be.

Q. Did you write that in circulating the book? Did you intend that the people who read it should believe it? A. Yes, sir, I expected that they would believe it.

Q. And that was your intention at the time you were selling and distributing the books? A. I didn't have that in mind at all. It was only put in there as an illumination of the text. That was the only object of putting it in.

Q. It goes on further to say: "We have not got a

principle at stake in the whole war that is worth the life of one marine or one khaki clad soldier." Did you believe that? A. He gave his reasons before that.

Q. You believed all the reasons he had assigned and believed the conclusions he reached? A. I didn't discuss his reasons as to whether I believed them or not.

Q. The question is, whether you believed it or not? A. I wasn't aware before that the insertion of a quotation from an author tied one down to every thought that they ought to have at the time the quotation was made.

Q. In other words, you thought, did you, that if your neighbor should say that another man was a liar or a thief, that you could put that in the book and circulate it and not become responsible for its circulation? 1862

The Court: Even if you used quotation marks?

A. If it appeared as a reasonable explanation to a passage of Scripture, perhaps I should do it, but I can't conceive of such a thing occurring—

Q. Can you see any difference between the illustration I gave you and this? A. Yes, sir, there is some difference between an individual and a government. 1863

Q. Did you believe that doctrine, that the United States did not have a principle involved that was worth the life of one— .

By the Court:

Q. Did you think that was so, or did you put something in the book that you didn't believe in yourself? In other words, were you sincere in writing it? A. Well, in a general way, I thought that Dr. Holmes had stated the matter in an honest way, but it seems to me a little strong.

1864

Clayton J. Woodworth

Q. How was it when you put it in, inserted it? A. When I put it in I thought it was all right.

Q. It met with your hearty approval when you inserted it in the book, did it not? A. I wouldn't like to say the word "hearty" in a matter of the mind. I put it in as an expression of an intelligent man who seemed to be well fortified with Scripture and reason.

Q. The important thing is whether you approved it freely and fully and adopted it? A. I have stated to the best I knew that I did not know that a use of a quotation—

1865

Q. That is not quite responsive. The question is whether you approved of that, whether you put it in because you thought it was true? A. I did put it in because I thought it was true at the time.

By Mr. Oeland:

Q. And you published under your name and expected it to be accepted by those who read the book? A. If they read it.

Q. You expected it to be read, didn't you?

By the Court:

1866

Q. You expected it to be read, didn't you? A. If it please your Honor, the Book of Revelations is a very difficult book to comprehend. It is like algebra to a collection of Bible students. While the book might look like nonsense to a good many people who read eight or ten pages, like a witness on the stand the other day who threw it aside in disgust—it is easy to see how he threw it aside in disgust. A child might like algebra or might say it is perfect nonsense, I can't make anything out of $A + B + C$, and in the same way a person who had no spiritual life, no comprehension of spiritual things, could read that book, and after they read a little ways they would come to something they couldn't understand and begin to ridicule it. I have

heard the book ridiculed two or three times in court here.

By Mr. Oeland:

Q. I have not been guilty of that, have I? I didn't intend it. A. I interpreted some questions as ridicule of two or three passages in the book.

Q. Did you publish this with the expectation and intention that those who read the book would believe it? A. I expected they would.

Q. You put considerable in the book—you didn't put it in the beginning? A. I didn't put it in the beginning because it didn't fit the beginning. 1868

Q. Didn't you intend that the book should be read and believed up to that point, and then you would have a more forcible and intelligent reasoning after you had read the beginning of the book? A. Not at all.

Q. Didn't you just state on the witness stand that a man would have to read the whole of the book before he could understand it? A. No, I did not state that.

Q. Didn't I understand you to say that a man who only read ten pages? A. A man might read ten pages in that book most anywhere and it would be algebra to him if he had no spiritual life. The book was written for those who had some spiritual life and are able to discern spiritual things. 1869

Q. Did you expect the general public to read and believe the portions I have quoted? A. So many are interested in God's work that that was the object that I had in putting this thing in, and the only object. The only object was to endeavor to expound what it was that was actually leading the whole world into the great—styled, "The Battle of That Great Day of God Almighty."

Q. Did you expect them to believe our entrance into the war was a crime and all the principles involved

1870

Clayton J. Woodworth

were not worth the life of one soldier? A. I expected them to believe with Mr. Holmes that, to the extent that I am responsible for Mr. Holmes' utterances, that is to the extent that I am responsible for putting them in the book. To that extent, of course, I am obligated to be responsible.

The Court: The question is what your purpose, object and belief was without regard to anyone else. What was it that you wanted? What was your belief. You can tell us that?

1871

The Witness: A well, my purpose and object—

Q. If somebody else believed something and he convinced you it was true—was that your belief? A. Predicated upon the argument which precedes it, yes.

Q. You came to that conclusion for certain reasons? A. On the basis of that argument.

Q. You adopted the argument? A. I quoted the argument.

Q. Did you adopt it? You were led to the same conclusion as the doctors? Is that the true situation?

A. In regard to this question I don't feel like assuming any responsibility for conclusions Mr. Holmes has drawn and bring them down to the present time.

1872

By Mr. Oeland:

Q. I only ask you to bring them down to the fall of 1917.

By the Court:

Q. Were you in fact led to that belief? A. Yes, sir.

By Mr. Oeland:

Q. You had in mind also in writing a portion of this book the effect on the Conscription Act or what we know as the Selective Draft Act? A. No, sir.

Q. What did you mean by the use of these words: "There is a hint that conscription will meet with opposition?" A. The whole world is engulfed in a war in which every nation in the world has had this problem of conscription up before it in some form; Russia, Germany, Austria, France, England, Canada, Australia, Ireland—there was great discussion of conscription in Ireland—it has not yet been put into effect, as well as the United States.

Q. When did you write these words? "There is a hint here that conscription will meet with opposition?" A. In the early part of April, 1917.

1874

Q. You knew then that the United States had to have men to carry on the war? A. Yes, sir.

Q. And that in all probability she would have to conscript them? A. I could not say as to that. It would be a fair presumption.

Q. When did you get Fisher's manuscript? A. Two mornings in the week as he progressed with it from the time the work began down to about May 15th.

Q. And when did you add these words to his writing: "There is a hint here that conscription will meet with opposition?" A. In the early part of the Spring of 1917.

1875

Q. You knew then it was a foregone conclusion we were going into the war? A. Yes, sir.

Q. Wasn't it written after the declaration of war on April 7th, 1917? A. I think it was.

Q. How long after? A. I think only a few days.

Q. You put in this portion, did you not, after referring to a minister in Canada who was dressed in a khaki uniform. He was asked if he was going into the trenches and he said: "No, he was merely acting as a decoy to get others to the front, just as a bull which they have at one of the Chicago stock yards,

1876

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meets the animals about to be slaughtered and tossing his head in the air becomes their leader up to the gangway leading to the slaughter. There he knows his little niche, into which he glides and is sheltered; while the others drive and press one another forward to the slaughter." Did you believe that? A. Yes, sir.

Q. That the ministers of the Gospel who are doing what they can in the country are merely acting as bulls to lead others to the slaughter? A. Yes, sir.

Q. You believe that today? A. I do.

1877. Q. And you published that with the expectation or intention that the readers should lose confidence in the other ministers? A. No, sir, I don't think that would be possible.

Q. That it should discredit them in the eyes of the men who were going into the war? A. I think they are all sufficiently discredited without that being an answer—further discredited.

By the Court:

Q. Were you willing that this should discredit them further, if possible? A. That is an explanation of the book of Revelation, 16:13 and 14.

1878. Q. That is not quite responsive. Was it your intention that they should be further discredited, if possible? Of course you did not intend to recommend the ministers were acting as decoys—did you intend to discredit them? A. If it please your Honor, the reason why that was put in—

Q. The question don't call for any reason yet. We only want to know if your purpose was to discredit the minister you referred to acting as a decoy? A. Yes, sir, it was.

Q. Did you have all of them in mind, they were all acting as decoys? A. Anybody that acted as a de-

coy in that way is certainly of a type that an honest man can never—

Q. You only printed that as an illustration, you say, of ministers— A. How goes it for sixteen hundred years—

Q. Do you mean that, that you wanted to have all ministers held up to the world as acting as decoys and leading men to butchery? A. I mean to say that if ministers of the Gospel had done their duty for the last sixteen hundred years such a thing as war would be unknown to the whole world.

1880

By Mr. Oeland:

Q. Did you mean to hold them all up as acting as decoys to bring people to slaughter? A. All of those who are not living up to what they know the Scriptures teach, and they all know what the Scriptures teach on the subject of war.

Q. Then it is your doctrine that the ministers really are responsible for the war? A. In my judgment minister of the Gospel, in the aggregate, are the greatest collection of hypocrites that ever existed upon the face of the earth.

Q. You didn't include this first page, the doctrine of Mr. Russell? A. No, sir, I did not.

1881

The Court: You may ask the witness whether he would have all ministers violate the law of the land in respect to enlisting and recruiting for the army?

By Mr. Oeland:

Q. These same ministers are now urging all the eligibles with whom they have influence to go into battle and lay down their lives, if necessary. Did you mean by that that all the ministers were violating the law? A. Here and there there was a minister that stuck to Scripture—

1882

Clayton J. Woodworth

Q. Would you have ministers violate the law and keep everybody from going into the army? A. I would have ministers confine their attention to preaching the Gospel.

Q. Would you have the ministers of the Gospel to advise everybody to keep out of the war?

1883

Mr. Fuller: If your Honor please, I object to this question upon the ground that it is not relevant to any defendant except the defendant on the stand. What this witness would think or would have or what his personal interpretation of this thing: or that thing would be, it is not binding on the other defendants.

The Court: That is so unless there is some evidence to show they adopted it. The jury will have that in mind.

Mr. Fuller: Is the testimony admitted at this time, your Honor, only as against this defendant?

The Court: The defendants are putting in their case now and you did not limit his testimony in putting in your case. It would not be quite proper for the court to do so on cross-examination, would it?

1884

Mr. Fuller: I would have Mr. Oeland probe the witness just as much as he cares to on his purposes and so forth, but I think the answer should be confined to this defendant and that the questions are irrelevant, immaterial and inadmissible against the other defendants.

The Court: Oh, yes, it is very proper on cross-examination.

Mr. Fuller: Suppose the witness should say I want all ministers to hang on lampposts. Are we going to take the testimony as against all these other defendants?

The Court: I think the jury understands that what this witness testifies to is not evidence against anyone else unless there is some evidence in the case tending to show that they have done the same, have the same beliefs.

1885

Mr. Fuller: I don't see there is any evidence in the case as to what the various defendants believe in respect to an excerpt in the book which constitutes a quotation from the Rev. Dr. Holmes. Now this witness may believe that and another witness may regard it as an exposition of the temper of the Rev. Dr. Holmes. Now, this witness's opinion of the subject-matter of the Rev. Dr. Holmes, certainly is not binding on some other defendant, and it doesn't seem to me that this cross-examination in so far as the cross-examination is confined to the bona fides of the intent as testified to by the witness on direct.

1886

The Court: I think you are right about it.

Mr. Fuller: If I am right I want it that the answer shall be confined to this particular witness and they shall be declared as not binding on the other defendants.

The Court: The jury, I think, will take that view of it without any suggestion even. They won't charge up one man's belief to another unless there is some evidence tending to show they are the same.

1887

Mr. Fuller: What does your Honor do with the objection on the ground that it shall not be binding on the other defendants?

The Court: I would not be quite justified in excluding the question. The jury will construe it just as you have said, and the Court will construe it that way.

1888

Mr. Fuller: Will your Honor admit it only as against this defendant?

Mr. Oeland: The Government will object to that where the proof shows that others adopted it. They might have the same belief. They might deny they had, but their actions might speak louder than words, then it might be proper for the jury to draw that inference.

The Court: His beliefs are not binding on any one else except they adopted them and approved of them.

1889

Mr. Fuller: The examination here was what was your personal intent with respect to certain portions of this book. I said nothing. Now, we come to the question what you think they do—

The Court: That is one way of getting at his belief. That was a suggestion of the Court. I withdraw that.

Mr. Fuller: I don't want all of these defendants to be bound—

The Court: We are not in the slightest danger. We will not charge the witness's belief up to someone else unless we are satisfied someone else was ratifying or approving it.

1890

Mr. Fuller: I don't mean by this to condemn the witness's belief at all.

The Court: As it is about time to take our usual short recess here, we will adjourn for about ten minutes.

At 3:45 P. M. the court met, pursuant to a ten minute recess.

*CROSS-EXAMINATION continued by Mr. Oel-
and:*

Q. Mr. Woodworth, you got a credit of \$500, for stock, in the Watch Tower Bible & Tract Society for this work? A. I was informed that \$500, that is that 50 voting shares had been placed to my credit. I never saw the \$500.

Q. That \$1,000 was transferred to the credit of the People's Pulpit Association? A. The first I ever heard of that was in this court room. 1892

Q. You were not present when that resolution was passed? A. No, sir.

Q. Didn't you know you were a member before this? A. I knew I was a member, not a director. I knew nothing about the \$1,000.

Mr. Sparks: There is no evidence that he is a director, even now.

Q. You knew the membership in the People's Pulpit Association cost \$1,000? A. I had several thousand dollars to my credit in the Watch Tower Bible & Tract Society so I presume— 1893

Q. My question was, did you know the membership in the People's Pulpit Association cost \$1,000? A. I have heard that.

Q. You heard that before yesterday, did you? A. I heard that some years ago, I could not say just when.

Q. You say you knew all the other defendants here? A. Yes, sir.

Q. How many times did you visit the Tabernacle, or the Bethel Home? A. Whenever I come to New York, unless I am in a hurry.

1894

Clayton J. Woodworth

Q. How often is that? I am trying to get how many times you visited it since July 17th, 1917? A. The next occasion was enroute to the Boston Convention which was held in Boston on or about August 4th, 1917. I might have stopped for a few hours at that time, but am not certain that I did.

Q. On July 17th you were here you say, when the book was ready for distribution? A. Yes.

Q. That is the day it was supposed to start out, and be distributed? A. Yes.

Q. July 17th, 1917? A. Yes.

1895 Q. You were called up here on that occasion? A. I was invited to be a guest here that time.

Q. Who did you see here that day? A. All the members of the Bethel family.

Q. You discussed the book fully that day? A. No, sir, there was no opportunity to discuss the book that day.

Q. What was the celebration about? A. There was some considerable discussion about the new directorate that went into effect that day.

Q. Did you learn that day that some of the old directors had opposed the publication of the book? A. No, sir.

1896 Q. You knew four of them were put out that day? A. I knew four of them were declared that day to not hold their offices legally.

Q. Others were put in their places? A. I knew four were put in their places.

Q. Were you invited up for that occasion? A. Yes, to be present on July 17th.

Q. Who invited you to come that day? A. I think Mr. Rutherford, the president.

Q. Then on that day you knew that the whole force of the Watch Tower Bible & Tract Society were going—I won't say the whole force—was going to be

used for the distribution of that book? A. I presumed it would be.

Q. You knew they had agents all over the United States? A. They have always had.

Q. You understood those books were to be distributed all over the United States? A. I presumed they would be.

Q. You got information from time to time that the issuance had run up to 850,000? A. I hadn't heard it reached it.

The Court: Does that mean all the editions included about that? This says this one passed to the Court "850,000 edition." I found out they seem to have 50,000 edition, I saw that in one of them. What I mean by that is whether this 850,000 was published the same as this was published.

1898

The Witness: I think I can answer this, though it don't pertain to my affairs at all. I understand the custom of the Watch Tower Bible & Tract Society in the printing of their various volumes, is to carry on the title page the sum total of the issues of that book that have been published up to and including that order.

Q. The last one of that order? A. Yes.

1899

The Court: When this edition came out that contains the statement 850,000 edition, it means all the other editions with that edition amounts to that number?

The Witness: Yes.

Q. Didn't Mr. Rutherford discuss with you at some time the fact that he wanted to get additional help to distribute this book? A. I received a letter from him to that effect.

Q. That he wanted to—did he ask your advice on that point? A. I believe he did.

1900

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Q. What time was that? A. My recollection is it was when he was away on his last trip to the Pacific Coast, this last winter.

Q. 1918? A. 1918.

Q. That contemplated an additional plan of distribution in addition to the ordinary distribution of the Watch Tower Bible & Tract Society agencies throughout the country? A. It included the use of all the true friends, with the people interested in this movement, in the spread of the truth, as we understand it. As many of them as would take an interest in it.

1901

Q. Is there any particular reason why he would advise with you? A. I suppose because he knew I was interested in the Lord's work.

Q. Weren't you interested in the distribution of it? A. Only in the sense I believed it to be the Lord's work.

Q. How late was that in 1918? A. I think it was early in the year, perhaps January or February.

Q. Then you knew as late as that time the books were being distributed and sold all over the United States? A. Yes.

1902

Q. Did you know they were shipped to foreign countries? A. I knew that at the time the book was issued it was being published in ten languages, or about to be, translations were under way when it was suppressed.

Q. Don't you know it was distributed? A. I knew it was distributed, presumably, in all the countries of the world where they have subscribers. That includes all the countries of the world, generally speaking, maybe here and there there is a country not included, but nearly all.

Q. On July 17th, 1917, when you had the book ready for distribution, you knew it contained these matters against the United States' entry in the war? A. I knew it explained Revelations 16, 15 and 14.

Q. Where it charged it was a crime to carry on the war, patriotism was a narrow-minded hatred and spirit of the devil? A. A certain delusion is described as of the devil.

Q. Then you painted patriotism as a delusion, a narrow-minded hatred of other people? A. That is taking an improper thought. I was speaking not of the person under that name. There is a higher, truer patriotism.

Q. You did not define the higher patriotism? A. No, sir.

Q. You knew then, that the United States was at war, in June, 1917? A. July 17, 1917. 1904

Q. You knew she had passed the Selective Draft Act? A. Yes, sir.

Q. Was your intention that that book should be circulated all over the United States for the purpose of retarding and hindering the efforts of the United States to get an army to carry on the war successfully? A. It absolutely was not.

By the Court:

Q. What effect did you think it would have? A. I thought advanced Bible students would see that here is the first reasonable, rational interpretation of Revelations, 16th Chapter, 13th and 14th Chapters, they had ever seen, that was my purpose. 1905

The Court: If they read that book and believed it they would refuse to participate in the war.

The Witness: I do not think they would be likely to read that paragraph.

The Court: If they did read the paragraph, read the book, and believed it, the tendency would be to be opposed to the war. In other words, you expected they would act in accordance with that belief, not to do exactly the opposite.

1906

Clayton J. Woodworth

The Witness: That is presumed, of course.

The Court: You subscribe to that doctrine?

The Witness: I expect I would have to.

The Court: You want to, don't you, whether you have to or not?

The Witness: I don't know that I can make a better answer to that than I already made.

The Court: You expected if anyone believed the book they would be opposed to the war, that would be a necessary logical conclusion, would it not, opposed to all the war.

1907 The Witness: That conclusion might be drawn from it, but that is not the reason for putting it in.

The Court: That is the only logical conclusion that can be drawn, isn't it? You couldn't expect a person to read the book, and believe what it said, and then go out and advocate warfare, in other words, to do exactly opposite to what they believed?

The Witness: I admit that the citation of certain Scriptures tends to crystalize in the minds of some, the thought that war is wrong, as stated there.

The Court: It would crystalize in the minds of every one who believed it that war was wrong, wouldn't it?

1908 The Witness: Perhaps.

The Court: Any doubt about it?

The Witness: If they believed it, it would have that tendency.

The Court: You believed it?

The Witness: I believed it enough to put it in the book.

The Court: You believe it now?

The Witness: I believe it is stated too strongly.

The Court: You believe the tendency, the general tendency of the book—you believe warfare is wrong?

The Witness: Yes.

The Court: That no Christian should believe in warfare?

The Witness: I believe warfare is wrong for a Christian.

Q. Was Mr. Fisher up here July 17th, 1917, at the time when this book was to be started on its mission?

A. Yea.

RE-DIRECT EXAMINATION by Mr. Sparks:

Q. This discussion you have been having with reference to war, I presume you mean war as an abstract thing, because that is generally recognized throughout the civilized world as true? A. Yes.

1910

Q. I think you were in error in your answer to Mr. Oeland's last question when you wrote this paragraph in which the word patriotism is used that way, that you were aware of the fact that the Espionage Act had also been passed?

Mr. Oeland: I asked him about June 17th.

A. He asked me with reference to July 17th.

Q. This paragraph had all been written prior to our entry into the war? A. Yea.

Q. And it became a completed fact so far as your work on it was concerned, prior to our entering into the war? A. Yes.

1911

Q. And after you completed your manuscript and corrected it, you donated it to the Watch Tower Bible & Tract Society? A. Yes.

Q. And so far as any right, property right, in that manuscript or work was concerned you had parted with the possession of it prior to this date? A. Yes.

Q. And so far as the right to it, you relinquished all control upon that work?

1912

Clayton J. Woodworth

The Court: You were advised of the subsequent edition at that time and changed it?

The Witness: Yes, but hardly I think more than fifty words in the book.

1913

Q. That was purely a voluntary act at the request of some one? A. I would like to explain how that revision came to take place, if it is agreeable. The way I got the thought in the first place that the war would be of three years' duration was from a study of the plagues in Egypt. It has been one of our beliefs from Pastor Russell's teachings, ever since the 6th Volume of Scripture Studies was published, that the seven last plagues upon Egypt, prior to the delivery of the Children of Israel, corresponding with the seven studies in the Scriptures, to the inauguration of the millennium. I believe that the seven last plagues upon the Ecclesiastism, prior to the inauguration of the millennium, are the studies in the Scriptures, and, therefore, the ninth plague upon the Egyptians corresponds with the events to transpire under the sixth plague of Ecclesiastism. Plague, was over all darkness, caused by a sand storm. The air was full of missiles flying, and sand, which completely obscured the light, and it lasted three days, and I thought that probably the Lord had intended that this mention of the duration of this sand storm, this darkness was intended to illustrate or represent this great world-wide war, because by these missiles through the air, which has caused a great deal of wonderment, or darkness among men. But when the war failed to come to an end in August 1st, 1917, or October 1st, 1917, as we anticipated it would, I recalled that the ancient day began at sundown, and, therefore, the three days of darkness upon the land of Egypt, might be understood as three and a half days, beginning at sundown, necessarily four nights were included. That is the reason

1914

why, after the 1st of October, 1917, I altered that passage to make it three and a half symbolic days, three and a half years, instead of three years. That's the explanation.

Q. Do you regard that there has been a fulfillment of that prophecy up to the present time? A. I think there was a considerable fulfillment of that prophecy at the end of the three days, or three years, when the Russian nation broke down, and I anticipated all winter long that probably Germany or Austria would follow that.

Q. Do you regard your prophecy as in part fulfilled by the fact that there is a breaking up the present war? A. Yes. 1916

Q. By one of the principal participants in it? A. Yes, I regard it as partially fulfilled, beginning to be fulfilled.

Q. In your answers to the questions of the Court and Mr. Oeland with reference to this quotation from Mr. Holmes, were your answers predicated upon the fact that you as a consecrated Christian believed that all war was wrong? A. Yes.

Q. And your answers are not to be taken as indicating that you believe, or expect persons, who are not consecrated, to adopt and accept that proposition as written by Pastor Holmes? A. No, sir. 1917

Q. Am I correct in that form of statement in my question? A. You are correct.

Q. So that any persons reading that quotation from Pastor Holmes, from your point of view, was not expected, and you do not believe, that an unconsecrated Christian would accept that as a proper and true doctrine? A. No, I do not think that a person unconsecrated to the Lord would have much use for that.

Q. That quotation was not directed to be used by persons known as unconsecrated Christians? A. No.

1918

Clayton J. Woodworth

Q. Your answer is no?

The Court: Do you mean by that that anyone who is a true Christian should not engage in warfare?

The Witness: My opinion of a true Christian is one who believes everything the Lord says.

The Court: The true Christian must not engage in warfare?

The Witness: I believe that.

The Court: Therefore, you believe all war is wrong?

1919

The Witness: Yes.

The Court: You believe the present war is wrong, and as to that that we are not justified, the Government is not justified, according to your belief?

The Witness: I make a distinction between the Government and myself.

The Court: According to being a true Christian Government, it should not be in this war, it is a crime.

The Witness: For such as are consecrated Christians.

The Court: That it is a crime for Christianity, for this Government, to be in this war, that is what you believe?

1920

The Witness: I believe it to be a crime for a consecrated Christian to be in the war to the extent of taking anybody's life.

The Court: It is a crime on Christianity, as you understand Christianity, for this Government to be in this war?

The Witness: I think as far as the Government itself is concerned that the position of a Christian is he should not interfere with worldly men doing the best they can do to carry out what they believe are good policies, and I believe that many advantages for mankind have come out of conflicts, wars, but as a whole I certainly cannot endorse the principle of war, and I do not believe anybody likes to see war.

The Court: That is not quite the response. You wrote this book after this Government was in war, or had entered the war, you circulated it, sold it. Did you believe this Government was committing a crime on Christianity in going into this war? You would not be engaged in warfare yourself?

The Witness: No, sir.

The Court: Because it would be a crime on Christianity?

The Witness: Yes.

The Court: And therefore all persons who are true Christians should not engage in warfare. This is a Christian nation, it should not be engaged in war, is that what you believe?

1922

The Witness: I should like an understanding of what is a Christian nation. To my mind there are no Christian nations.

The Court: If this Government was a Christian nation according to your notion of Christianity?

The Witness: If the Government was a Christian country according to my idea, I believe it would not be engaged in any war.

Mr. Sparks: I don't think you are stating what you reasonably believe, as I understand the doctrine.

The Court: That is what the book says. It seems to be consistent with the book and all the literature introduced here.

1923

Q. Is it part of your belief that the only persons who are to be excluded from participation in war are people who are known to you, and understood by you, to be consecrated Christians? A. That is the class I understand is.

Q. Take a person like myself, who is not, and who has not consecrated himself to Christ, have I not a perfect right to engage in warfare in defence of my country? A. Yes.

1924

Clayton J. Woodworth

Q. And if the majority of the people in this country are like myself, and have elected the Government of our people, do you not understand that we have a perfect right, in the defence of our country, to declare war and prosecute it to the full? A. Yes.

Q. And do you not understand that I as one of the supporters of this Government, which has declared war, that it is my absolute duty to take up arms and prosecute that war in the defence of that country? A. I understand you have a right to do so.

1925 Q. And that it is my duty, being a part of the Government, and having elected that Government, to defend it? A. Yes.

Q. Is not that your judgment and the doctrine of the society of which you are a member? A. Yes, sir; as I understand it.

The Court: You hold that as the doctrine because the law of the land is that way, not because you believe the law of the land is right. You believe the law of the land is wrong?

The Witness: I feel as though the Government is very generous in recognizing there is such a thing as conscientious objectors.

1926

The Court: I wish you would ask him more on that, Judge Oeland.

Mr. Sparks: I am not through.

Q. Right along that same line, Mr. Woodworth, do you not believe, so far as the individuals comprising this country, who are not of a class known as consecrated Christians, that the Government representing those people has the right to engage and to prosecute this war? A. Yes, I believe they have a right to prosecute the war.

Q. And the Government prosecuting the warfare, and on their behalf, do you believe they are engaged, or it is engaged, in a just cause for those people? A. Yes.

The Court: If the cause is a just one, a righteous one, why do you object to helping in it? It is right and just for me to engage in warfare. Why do you object to helping those who believe the way I do?

The Witness: Because it becomes necessary for me as a Christian to ever keep in mind the precepts of Christ to be found throughout the New Testament, and I have been just as far as it is possible for me to go without violating those precepts in obedience to all the laws and regulations of the country of which I am proud to be a citizen.

1928

Q. This part of page 253 which has been referred to by Mr. Oeland, which describes the minister in Canada, was written prior to the entry of this country into the war? A. Yes, sir.

The Court: He has been over that fully.

Q. That referred, did it not, to a particular minister, who in your mind was doing something he did not believe to be right, and permitting himself to be used as a decoy? A. Yes.

1929

Q. That reference had a reference to a particular class of ministers who permitted themselves to be used as decoys without themselves pretending to further a righteous cause? A. Yes.

Q. It has been suggested the matter contained in page 247 of the book was put in there to be concealed, and was not put in for a particular object. Could that matter have been inserted in that book in any other way? A. No, sir.

1930

Clayton J. Woodworth

Q. For what reason? A. Because of the context. It is the context here that got me in this trouble today. It is in the Scripture as written in Revelations. I cannot help it being there. It says, beginning with the words, "Come out of the mouth of the dragon" and ending with the "world-wide conflict." I cannot avoid having used the "dragon" which I understand is not a disreputable use of the word, but is used in regard to civil power all over the world. That the dragon is guilty of leading the world to its ruin, the present order of things, to be followed by a great lesson shortly.

1931

Q. If you had not written your true interpretation of that paragraph you could not have put in the matter you put there? A. I would not have dared submit a manuscript unless it expressed my belief of what the Lord said when I wrote it.

Q. Your only intention was to properly interpret that verse of that chapter of Revelations? A. Absolutely.

Q. You had no other thought in your mind, or at that time, or at any time up to the present time? A. No, sir.

Q. And no person suggested to you it would have any tendency to interfere with the draft? A. I never heard the paragraph was objected to until I saw that paragraph in the "Scrantonian."

1932

Q. Had it ever occurred to you that that paragraph, or the quotation you gave from Jefferson and Holmes, would in any way tend to impede the draft? A. No, sir.

Q. Did you have any intent it so should? A. No, sir.

Q. You were asked a question whether you objected to the copyrighting of the book by the People's Pulpit Association. I understand at the time it was copyrighted you had transferred all your rights to the man-

uscript to them, and they could copyright it in whatever name they saw fit? A. Yes.

Q. You had no control over that? A. No, sir.

Q. Mrs. Seibert referred to, and to whom this letter was addressed, was practically named as secretary of the committee, which comprised yourself, Mr. Fisher, and her, so letter might be sent to her for convenience sake? A. Yes, sir.

Q. And that was the only object in her being described as secretary? A. That is all.

Q. Have you received one cent of compensation for the work you have done? A. Except that I received the gift of a box of books, 100 books. 1934

Q. That is your sole and only compensation? A. Yes. I do not interpret that as compensation. That is customary when people do literary work, for a house, as a gift of love, receive nothing in return. I received 25 or 30 of those Bibles from Pastor Russell when I finished this commentary on the Bible.

Q. This sermon you quoted from Dr. Holmes is printed in book form and is now in circulation generally throughout the country and city, isn't it? A. I believe it is.

Q. It is printed in book form. I show you a copy of that book and ask you if you know when that was purchased at the public stands, or public book stores of this city? 1935

The Court: Were you present when it was purchased?

The Witness: I was not.

The Court: Then he cannot answer that question. Go on.

Q. Do you know of your own knowledge that that book containing that sermon is now on public sale in this country? A. Only as I heard it within the last day or so, and I didn't hear the details of it then.

1936

Clayton J. Woodward

Q. That book bears—

Mr. Oeland: I object and ask that that be stricken out as hearsay.

The Court: Yes, it should be and it may be.

Q. That book appeared to be marked of what date?

The Court: What is the purpose of introducing the book, Mr. Sparks?

1937

Mr. Sparks: The purpose of introducing the book is this: Here is a book which is being circulated from which quotation was printed in this book. If the object of inserting this particular quotation from Dr. Holmes was for the purpose of obstructing the draft, it would not have been necessary for this man or any of his co-conspirators, to tuck it away in a Bible study, or Bible work, containing 600 pages. All they needed to do was to buy the sermon itself on circulation all through the country and send it out as a book of Dr. Holmes, and there would be absolutely no liability unless the Government should indict the people for distributing a particular book itself. Here is something Mr. Oeland has spent an hour, or two hours, trying to convict this man of an attempt to impede the draft by quoting from some author in 1917 when this book is flooded all over the land and can be bought at any book stand, or general store, and it contains numerous arguments, more extensive arguments, and extensive reasons, for not going in the war. I say that shows what his intention was in putting it in there. If he had an intention to impede the draft he would not have gone about it in a silly way by quoting it in this

1938

book. They would have bought the sermon itself in book form.

The Court: That would be a more successful way of doing it, less danger. He might not have known of it then, might not have had your advice. Maybe the author of this book is under indictment, maybe he will be.

Mr. Sparks: It goes to the question of intent. If a person does a thing in such a slipshod way, in such a bungled manner, I think the jury have the right to have before them the fact that they could have accomplished the very thing the Government accuses them of accomplishing by simply putting out an original sermon. 1940

The Court: Would he have any right to put out the original sermon, it is copyrighted?

Mr. Sparks: He could have gone and bought them in any store by paying the price.

The Court: That would involve a process of elimination and reasoning.

Mr. Fuller: It seems to us if the defendant in charge was doing something to violate the Selective Service Act, the charge is not that they circulated this book, the charge is they endeavored through the circulation, wilfully to violate intentionally, to violate the provisions of the Selective Service Act. It seems to us if we can show portions of the publication on which the contention to violate that law rests are drawn from current literature, it has a strong question— 1941

The Court: If a thief enters a house through the window and not through the door which was open, you would say, "The door wasn't locked. He didn't intend to steal, because if he was sensible he would have gone through the door."

1942

Clayton J. Woodworth

Mr. Fuller: If a man is found in another man's house, and he is charged with breaking and entering it, and he proves it is the custom in the neighborhood for people to go in people's houses for certain things, say on rainy nights, and live there, and the doors are open, it seems to me that is pertinent on the question that his purpose was not to enter and break in.

1943

The Court: He said he wrote it, believed what he wrote, wrote it with the intention that as many people would read it as possible, and the more that read it would better please him. The fact of whether it is a quotation or his writing makes no difference. He says today warfare should not be engaged in. He says a true Christian doctrine is if we were all Christians we would not be in war.

1944

Mr. Sparks: It would not make any difference under the first and second counts if he did not do it with a certain intent, did not conspire with seven other men, from everything he said he is entirely innocent. He cannot be convicted on the first and second counts unless he had a criminal intent.

The Court: He had a felonious intent. He intended to do what he did do. That was against the law. There is no evidence he did not intend to do what he did. He did it purposely. He says he knew the law was passed. Of course, that is immaterial whether he did or not. This evidence may be excluded subject to the defendant's exception.

CROSS-EXAMINATION by Mr. Fuller:

Q. Mr. Woodworth, do you regard it as right for a consecrated Christian following the teachings of

the Bible, to engage in playing on bowling alleys, playing billiards, playing cards, dancing—

The Court: How is that material?

Q. Going to the theatre?

The Court: How is that material?

Mr. Fuller: It is material upon this question. The witness has very clearly mapped out two lines of conduct with respect to war, one for a consecrated Christian, that is the term he used for a full Christian, an unqualified Christian, and one for an unconsecrated Christian. Now, the question is as to whether or not the duties with respect to war, sketched by the witness, are of such character, that when his conception of those duties are to be expressed it constitutes a violation of the Espionage Act. That is the question. The testimony by the witness in detail of what his conception of the duties of a consecrated Christian are, and then his definition of his conception of the incidental duties of a person not a consecrated Christian, regardless of whether he may be a believer in God, believer in Christ, and a highly moral Christian, has a high bearing on the question of whether or not in writing such a work it contained anything that could be called an admonishment of a person not a consecrated person, that that person should not engage in war.

1946

1947

The Court: Do you think it did?

Mr. Fuller: No, sir; I don't think so.

The Court: We won't try as to the bowling alleys in this case. I think that is immaterial.

Mr. Fuller: Exception. In order to get your Honor's ruling in respect to two or three questions—

1948

Clayton J. Woodworth

Q. Do you regard it as in accordance with the teachings of the Bible for a consecrated Christian to engage in business life and accumulate money, accumulate property, and use that money and property for the gratification of his personal desires?

The Court: That may be excluded.

Mr. Fuller: Exception.

1949

Q. Do you regard an endeavor, as a form of arrangement under which the activities of persons who are engaged in business ventures for private profit, the profits of which they desire and undertake to use for the gratification of their personal desires in a manner which is not in accordance with the conduct prescribed in the Scriptures as that to be expected of a consecrated Christian?

The Court: Excluded.

Mr. Fuller: Exception.

The Court: In view of what counsel suggested, tell us, please, if you do not regard all those persons who are not consecrated Christians as sinners? Is that the doctrine of your belief? If it is not, what is the advantage of being a consecrated Christian?

1950

The Witness: May I answer at length?

The Court: Say yes or no at the beginning.

The Witness: Yes.

The Court: You do? All those who are not consecrated Christians are sinners?

The Witness: Yes. May I—

The Court: You may make any explanation, yea. You may make an explanation, but of course "yes," that is fair enough although I do not invite it. If you like to make it you may.

The Witness: I do not wish to obtrude.

The Court: It would be nothing except your right.

The Witness: I can make it brief.

The Court: You don't need to make it brief. That is a matter for you to decide.

The Witness: To understand the word which is rendered sinners in the Scriptures, the Greek word means, "a missing of the mark." And strictly it would mean a missing of the mark of perfection, and in that sense of the word every human being is a sinner, all of sin, and come short of the glory of God, but in the Divine arrangement, he is now preparing a church, this church throughout the age has been composed, as I understand, of four classes of Christians. There is a class of Christians as we all know—

1952

The Court: We are not concerned with any other class. I don't want to limit you on this—

Mr. Fuller: I think he is going to give four classes of sinners.

The Court: It don't make much difference what class they are in if all engaged in war are sinners.

The Witness: If it is agreeable I will promise to do it in two minutes.

The Court: I hardly think we should want to hear it. Of course there are some 250 odd different creeds.

Mr. Fuller: I don't think he has that in mind.

1953

The Court: To go into other beliefs would be an endless chain. I think there are 259. I doubt whether it is material, but you may answer.

The Witness: The Lord's people are divided into four classes, one of whom accept God's word to the very best of their ability, live up to it entirely, and accept that as their rule of life and everything. Another class believe in God's word and have the wish to live up to it, but when they are confronted with anything to endanger their immediate interest they tem-

1954

Clayton J. Woodward

porize. This is a class I believe called in the Scriptures, "The great company." A class of which I believe there are millions now living. Now besides there is an enormous class of Christians trusting for salvation under the precious blood of Christ, who believe Christ died for them, just trying to live harmless lives, don't wish to do any harm, but who are not apostles in the Lord's service. The fourth class we know who they are. People who associate themselves with God's people merely for business or commercial purposes, something of that kind. That is all I meant to say.

1955

Q. Towards the close of the quotation at pages 250 and 251 of John Hayes Holmes, is a statement, "The war itself is wrong. Its prosecution will be a crime." You reviewed the book, you reread this statement after the United States had entered upon the war, so that the war was an existing fact regardless of whether the war was right, or whether the war was wrong, and regardless also of the question, the general war being an existing fact, of whether the participation of the United States in that general war was right or wrong; with respect to that existing fact, the existence of the war, and the existence of the United States, and the fact the United States participated in it, is there anything contained in this book that admonished any citizen of the United States who had not consecrated himself to God as to whether he should or should not participate in a war already then existing?

1956 A. No, sir.

The Court: There isn't any limitation, is there?

Q. Was it your purpose that anybody should receive from this book, any such person should receive from this book any admonishment as to what it was his duty to do with respect to the national Government's par-

ticipation in the war, and his lending any support to the National Government? A. No, sir.

Q. Now, on page 253 is an excerpt referring to the activity of a clergyman in Canada which contains this note, "One was out in khaki uniform marching through the street with the volunteers. Asked by a college friend, 'I saw you in the ranks,' he answered, 'Yes, I wanted to encourage the boys.' 'And did you think of going to the front, to the trenches?' 'Not a bit of it.' " And then follows an analogy drawn between his relation to the boys and the relation of the bull who leads the cows to the slaughter in the Chicago stockyards. That excerpt is quoted completely from the "Watch Tower" of 1915, page 259, is it not? A. Yes.

1958

Q. Do you see any incongruity in the one who had consecrated himself to God clothing himself in khaki and asking persons to enlist and go to the war? A. I don't see how he could do it.

Q. Do you regard that as incongruous with his consecration to God? A. Yes.

Q. Was it any part of your view that a professed clergyman, preacher of the Gospel, in order to satisfy his calling, he must be consecrated to God? A. He should be.

Q. Was it that incongruity between his conduct, on that occasion, and his consecration to God that permitted your use of this quotation? A. Exactly.

1959

Q. And was it further your belief, if he was justified in seeking that recruiting, seeking others to enter the war, that that same justification must result in his himself participating in the war? A. I should think to be consistent, surely.

Q. You said on the cross-examination by Judge Oeland, I think, that you changed the quotation at the bottom of which appears the name of C. E. Jefferson, in one or two particulars, and condensed the

1960

Clayton J. Woodworth

article. Was not this quotation as it appears on page 247, 248 and 249, taken bodily from the "Watch Tower" of 1909, page 179? A. Yes.

Q. Weren't the changes to which Judge Oeland referred in respect to the original article changes made to that article published in 1909? A. That would be a matter I would have to confirm by referring back to the original "Watch Tower" from which it was taken, but I suppose one word, "obsession," was changed to "demon influences."

Mr. Oeland: Demon suggestions.

1961

Q. Was there any intentional change made by you from the copy of the "Watch Tower" of 1909? A. I think one place, where I connected up two sentences.

Q. By dropping something out from in between? A. Yes, I have shown you, I have gone over his pamphlet and compared it with this book.

Q. Have you got a copy of the "Watch Tower," did you take it from the "Watch Tower" or the pamphlet? A. The "Watch Tower."

1962

Q. When testifying on Judge Oeland's cross-examination, where the difference was referred to, the difference between the print as it appears in this book and the copy as it appeared in the "Watch Tower," or was it the difference between the print as appears in this book and the copy as it appeared in the original pamphlet? A. I understood him to be asking the question whether the differences were differences in the way they appeared in the book and the pamphlet.

Q. The original pamphlet? A. Yes.

Q. This article has "C. E. Jefferson" as the authority from which the American Association for International Sales, Z. 1909, 179? A. Yes.

Q. And in the front of the book is there a reference which explains initial citations? A. There is.

Q. Can you tell me, that is on page 10 of the book,

can you tell me, the statement is this, is it under the explanatory notes, "The posthumous work of Pastor Russell is much condensed." Is the statement there, is it not? A. Yes.

Q. And the further statement, "The professions from the heart are many," "Zion's Watch Tower," followed by the year and page? A. Yes.

Q. Then this reference at the bottom of this is a reference it is quoted from the "Watch Tower," coupled with the suggestion that the "Watch Tower" got it from Jefferson? A. Yes.

Q. Any changes that appear in this copy, as compared with the original pamphlet, are not changes that are necessarily included within these quotations? A. I haven't any knowledge.

Q. These quotations are quotations from the "Watch Tower"? A. Yes.

Q. And not quotations from the original pamphlet? A. No.

Q. These do not imply a literal translation from the original? A. No, it is explained on the page there many of the quotations are cut down.

CROSS-EXAMINATION by Mr. Oeland:

Q. In place of the word "obsession," who put in "demon suggestions"? A. I don't know.

Q. Go back a minute to your prophecy. You say you corrected that because you made a mistake about the night? A. Yes.

Q. You corrected it so the war would be over in the spring of 1918? A. Yes.

Q. Even that has gone wrong? A. Yes.

Q. Can you tell us when you think it will end? A. I have no idea now at all.

Q. You spoke about wanting this book to be read by the consecrated? A. Yes.

1964

1965

1966

Clayton J. Woodworth

Q. You did not restrict it to them? A. I knew it would be like casting a magnet—

Q. You did not restrict it to be read by the consecrated? A. No.

Q. You hoped it might be read by others who might become consecrated? A. I think there is nothing special in the book that would lead people to be consecrated.

The Court: That is not what he asks. You hoped it would be read by others?

1967

The Witness: No, sir. The book presupposes a knowledge of the other six volumes of the Scriptures.

Q. Didn't you hope that might be read by some man that was sort of half-way consecrated, and might lead him in the light? A. It may have done so.

Q. Didn't you hope so? A. It might be here and there there was one consecrated,

The Court: What did you hope, or desire?

The Witness: My wish was to make a book that would be a real help to understand Revelations.

1968

Q. My question wasn't that. Wasn't your real hope it might strike some man, using the common expression, who was on the fence, and help him to become consecrated? A. It might do that.

Q. Wasn't that your hope?

The Court: You want to do all that you could? Do as much good with the book as you could?

The Witness: My motive was to make this book a revelation—

Q. Wasn't it your hope when you sent the book out that those partly consecrated might be led in the fold? A. I am not conscious of having that hope.

Q. Did you have it, or do you say you did not have that hope? A. The Book of Revelations expressly states—

Q. I am not talking about Revelations; I am talking about what was in your mind. A. I did not have that hope.

Q. Didn't you have a hope or intention you might start others on the right path, that you might open their eyes? A. In connection with the Book of Revelations, when the time comes he who is righteous, let him be righteous, he who is filthy, let him be filthy, and who is holy, let him be holy. I describe it as explained in Revelations. We understand it is not intended to lead people to make a consecration; it is intended specially for those already in covenant relationship with the Lord.

1970

The Court: To entertain them?

The Witness: To confirm them in their faith.

Q. Wasn't your hope that you would enlarge the scope of the society and bring others in the fold? A. No.

Q. Didn't you hope it might fall into the hands of some man who might be just about wavering about going into the war, and not go into the war? A. No.

Q. In damning himself by becoming a helpless sinner by going to the war? A. No, sir.

1971

Q. You didn't put anything in the book to restrict it so a half-way sinner might go to war? A. No, sir.

Q. You stated it was perfectly right for the sinners to go to war; that is the substance of it? A. Yes.

The Court: That is not quite right. What he said was not unlawful.

Q. Yes. Not unlawful. You were perfectly willing to reap all the benefits that comes to a Government under which you live by the sinners sacrificing

1972

Clayton J. Woodworth

their blood in your protection, and the protection of the Government under which you live? A. I am not asking anybody to take any suffering for me.

Q. You are willing to take such benefits that accrue? A. If I am to live anywhere I want to live in the United States, where hitherto we had religious liberty.

Q. Do you think you are not having it now?

The Court: You are having the same religious liberty in this nation today that you always had.

1973

Mr. Sparks: He has not answered the last question.

A. I don't think I am having religious liberty at the present time.

Q. Why do you think that?

The Court: Will you ask him what he thinks would become of this nation and people if we didn't do something in this war.

Q. You said you are proud to live under this Government? A. I am.

1974

Q. What do you think would happen if we didn't do anything? A. I know the Bible says, "Blessed is that nation whose God is the Lord." If these people were a people wholly consecrated to the Lord, the Lord would take them under his wing and take care of them, the same as Israel, in the days of old.

Q. He didn't keep Israel out of war? A. No, sir.

Q. They shed blood? A. Yes.

Q. They were continuously in a war or a fight? A. Yes.

Q. You think if we sat down and said, "Come to us, do what you want to us," the Government would still be protected? A. I believe the question—

The Court: Answer the question.

Q. Do you believe that? A. Yes.

Q. Then you think everybody who engages in war is wrong? A. No.

At 5 P. M. adjourned to 10 o'clock, June 13th, 1918.

Brooklyn, N. Y., June 13, 1918, 10:00 A. M.

The court met pursuant to adjournment.

1976

Present: Parties as before.

Mr. Sparks: May it please the Court, I wish to withdraw a statement I made yesterday in reference to Exhibit G, made yesterday, that among a lot of other books it was bought at the public stand. It was handed to me as one that I thought had been so bought. I find it was sent to my office by the author's attorney for use in this case, for comparison. I withdraw that statement that this book was bought in the stores.

The Court: Yes.

Mr. Sparks: If Mr. Fuller wants to examine Mr. Woodworth further, may he be put back on the stand?

1977

The Court: Yes.

WILLIAM E. VAN AMBURGH, one of the defendants, called as a witness in behalf of the defendants, was duly sworn and testified as follows:

Direct-examination by Mr. Sparks:

Q. How old are you? A. Fifty-five years next August.

Q. Where were you born? A. Minnesota.

1978

William E. Van Amburgh

Q. Of what parentage? A. Of American parentage, my father and mother both being citizens of New York State.

Q. What early education did you have? A. I was in the public schools in the country until I was ten years old; then I moved to Northfield, Minnesota, where I graduated from the Northfield high school. Then I was at Carleton College for two years, a college of the same town, Northfield.

1979

Q. What business experience did you have before you started to be engaged in the Bible—in the Watch Tower Bible & Tract Society? A. My early life was spent upon a farm until I was nineteen years old. I then entered upon the railroad telegraph work, and entered the railroad service a year later, and I was with what is now known as the Great Northern Railroad for sixteen years, entering the service in 1884, leaving the service in 1900, to come to work at the headquarters of the Watch Tower Bible & Tract Society.

Q. In what year? A. 1900.

1980

Q. What early religious education did you have? A. My mother tells me she dedicated me to the Lord before I was born, and dedicated me to the Lord after I was born. My first recollection is learning prayers at my mother's knee. I joined the Methodist Church and was what is known as converted, at the age of ten years, and I was active in church affairs later, in giving up myself to the Lord. I made a full consecration of myself, so far as I knew how, when I joined the Methodist Church. In 1886 I signed a written statement to the effect that everything I had owned, or expected to own, or possess, was

to be given to the Lord. I was active in the church work and Y. M. C. A. work, holding services nearly every Sunday in the city where I was engaged in railroad work, holding services in school houses; in one place where I was stationed they had a Sunday school for—

The Court: We don't need a detailed statement of your religious work.

Q. You were active in religious work down to the time you came to Brooklyn to join in the work of Pastor Russell? A. I was.

Q. When did you first come in contact with or have brought to your attention the works of Pastor Russell? A. In February, 1895.

Q. Under what circumstances? A. I was then interested in the second coming of Christ. As near as I can remember, I was reading over a book called "_____," A friend came to the office one day and said, "I have a book"—

The Court: Leave out what he said.

A. (Continuing.) A friend had a book on the second coming of Christ, he offered to loan it to me, and I took it. It was the first studies in the Scriptures. I studied it and said that is the Bible in A, B, C. I was so interested and it was so different from what I had read that I took it to the Lord in prayer, to find out whether it could be the truth, and while reading it, two-thirds through, I got down on my knees in the office—

The Court: We don't need so much detail.

Mr. Sparks: Perhaps we could go along quicker if we allow him to outline in full.

The Court: We won't violate the rules of evidence continually.

1984

William E. Van Amburgh

Q. Omit the details. **A.** I became very deeply interested and took up the study with other translations of the Bible, the King James Version, Concordances, Helps and Dictionaries, to see whether this was really a proper interpretation of the Bible. Being convinced of that fact, I studied a year, I withdrew from the Methodist Church in 1896. From that time on until 1897 I was associated with the society in the sense of endeavoring to promulgate their doctrines, and in 1900 left the work of the railroad service and went to Allegheny, the headquarters.

1985

Q. To take up some work at the society? **A.** At what time?

Q. At that time? **A.** I was an assistant in the office for a few months, then I returned home on account of the sickness of my father, for a few months, coming back again in 1900, and have been actually engaged in the Watch Tower Bible & Tract Society ever since.

Q. What has been the nature of your service? **A.** In August, 1901, I was elected as a member of the Board of Directors. In March, 1903, I was elected as treasurer and secretary of the society, and have held that position continually since.

1986

Q. Are you a regularly ordained minister of the society? **A.** I am.

Q. As such have you worked in preaching and expounding the doctrines of Pastor Russell? **A.** Yes.

Q. To what extent? **A.** To the extent of holding three or four meetings a week as instructor for Bible students, and on Sundays usually from two to three, services every Sunday, public.

Q. From the time you joined this work in 1900, down to 1917, what compensation have you received for your work? **A.** For the few first years I received nothing. Later it was arranged each worker should receive ten dollars a month. In the spring of 1917 it

was arranged each worker should receive \$15 a month for incidental expenses.

Q. That was not in the way of salary, compensation, but to meet incidental expenses, such as carfare, laundry— A. Clothing and various other items of necessary expense.

Q. Have you made any contribution to the society, to advance the work? A. Yes.

Q. To what extent? A. Something over a thousand dollars at first, and my services ever since.

Q. Did you have any part in the writing of "The Finished Mystery"? A. No, sir.

1988

Q. Was there any action taken by the Board of Directors of the Watch Tower Bible & Tract Society or the People's Pulpit Association, affirmatively looking to the publication of this book? A. No, sir.

Q. Did either society, the Watch Tower Bible & Tract Society or the People's Pulpit Association, request any person to write this book? A. No, sir.

Q. It was voluntarily submitted as an interpretation of Ezekiel and Revelations by Mr. Fisher and Mr. Woodworth? A. Yes.

Q. And after the members of the editorial committee, or some other committee, had read the manuscript and approved of the religious doctrines and interpretations made by those two men, it was published? A. Yes, sir.

1989

Q. Did you ever meet with any of the defendants in this action with any purpose of impeding the draft, as it could be accomplished through this book? A. Absolutely no, never thought of such a thing.

Q. The work itself, or the writing contained in the book, was calculated to impede the draft in any way—did any person ever suggest that? A. Absolutely no.

Q. Or the raising of any military force? A. No. It was religious, not political in any sense.

1990

William E. Van Amburgh

Q. Has it always been looked upon by the members you have come in contact with as a strictly religious book? A. Yes.

Q. Did you ever hear it suggested by any one until March, 1918, that there was anything in the book which would impede the draft or the raising of military forces of the United States?

Mr. Oeland: That is objected to. It makes no difference whether he heard it or not.

The Court: Under the conspiracy, I am inclined to let him answer.

1991

A. No, sir.

Q. Under what circumstances did you first hear that there was objection to the book on that ground?

A. When it was called to our attention by the arrest of some of the friends in Pennsylvania.

Q. That was some time in March? A. Early in March, I believe.

Q. 1918? A. 1918.

Q. Shortly after that, on Mr. Rutherford's return from a trip in the west, was there a meeting of the board of the Watch Tower Bible & Tract Society in reference to that objection? A. Yes.

1992 Q. And up to that time did you know what part of the book was objectionable or was claimed to be objectionable by the Government? A. I did not.

Q. When was the first time when you say it was called to your attention for the first time, what part of the book the Government objected to? A. At about that time.

Q. Was any action taken by the Board of Directors in reference to this objection of the Government? A. Yes.

Q. Pursuant to the action of the Board of Directors in that respect was some person sent to Washington to ascertain what part of the book was objectionable? A. Yes.

Q. Who was that person? A. F. H. Robison.

Q. Did Mr. Robison make a report to the Board of Directors as to what he learned, or the result of his interview with the authorities or some person in authority in Washington in that respect? A. Yes.

Q. Did the Watch Tower Bible & Tract Society, or the People's Pulpit Association or the allied organizations take any action as a result of what Mr. Robison learned in Washington? A. The Board of Directors of the Watch Tower Bible & Tract Society.

Q. And as the result of the action of the Watch Tower Bible & Tract Society were certain instructions given in reference to the future circulation of that book? A. Yes.

1994

Q. That action was evidenced by the sending of written instructions to every person who had anything to do with the circulation of the book? A. Yes.

Q. And also instructions given to the printer to cease publishing the book until further instructions? A. Yes.

Q. I understand your work for the society, Mr. Van Amburgh, is purely clerical? A. Yes.

Q. That is aside from the fact that you preached the Gospel for them? A. Yes.

1995

Q. And outside of your preaching, your work consisted in keeping the books down there? A. That is all, and as a member of the Board of Directors.

Q. Are you conscious of ever having done any act since the United States went into war by which you intentionally sought to impede the raising of an army by the United States of America? A. Absolutely no.

Q. Have you consciously done any act by which you intended to cause insubordination? A. No, sir.

Q. Among the military forces of the United States? A. No, sir.

1996

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Q. Have you read the indictment herein, Mr. Van Amburgh? A. Not critically.

Q. Have you read the exhibits attached to the indictment? A. I read some of them; I don't recall if I have read them all.

Q. The first schedule, or Schedule B of the indictment, is a letter purporting to have been written by Frank D'Onofrio to the Watch Tower Bible & Tract Society, October 6, 1917, in Italian. I ask you whether you ever saw that letter prior to the finding of the indictment herein? A. Is that the letter which
1997 was printed in the "Watch Tower"?

Q. No, this is what was called the D'Onofrio letter, written October 6, 1917? A. No, sir.

Q. Did you ever see a translation—I show you a translation which is marked Schedule C and ask you whether you ever saw a translation of the D'Onofrio letter? A. Not until this indictment.

Q. Do you know that copies of the D'Onofrio letter, whether in Italian or in English, were being mailed to any person? A. No, sir.

Q. And was your permission ever sought by any person, directly or indirectly, to the circulation of such a letter? A. No, sir. Excuse me, is this the one that
1998 was translated in the "Watch Tower"?

Q. No, it is a letter written by a man in the American camp, it is not the Cuminetti letter. A. Excuse me, I didn't know the difference in the two letters.

Q. The letter I think you have in mind is what has been referred to in this trial as the Cuminetti letter, a copy of which is marked Schedule D, and is in the form of a pamphlet, printed pamphlet. I ask you when you first heard or read of that letter? A. At this trial.

Q. I am speaking now of the Cuminetti letter. A. That was the one published in the "Watch Tower"?

Q. Yes. A. I first heard of that now.

Q. When? A. I don't remember the date, but when it was first published.

Q. There is a notation on Schedule D, being the pamphlet, "The Watch Tower," December 15, 1916, page 387." A. I think that would be about the date.

Q. I ask you whether this pamphlet, purporting to be a copy of that letter, was ever printed and circulated with your knowledge or consent? A. No, sir.

Q. Did you have any knowledge that pamphlet had been printed until it was brought to your attention after this indictment was found? A. No, sir.

2000

Q. I show you Schedule F, which is attached to the indictment and headed "Additional Affidavit," purporting to have been signed by you, and sworn to by you on the 7th day of August, 1917, and ask you whether that was an affidavit, if you signed it and swore to it, which was filed by some registrant under the Selective Service Law, under the law, on his application for classification under that law? A. I signed an affidavit which I considered to be properly and—

Q. Answer my question. I asked you whether that affidavit, if signed by you and sworn to by you, was made by you for some registrant under the Selective Service Law in his application under the Selective Service Law, for deferred classification? A. You mean I appeared before the board?

2001

Q. I ask you whether you signed that affidavit at some registrant's request? A. No, sir.

Q. Listen to the question. A. I don't think I got it.

Q. I am asking you whether you signed that affidavit at the request of some registrant, when I say "registrant" I mean a person registered under the Selective Service Act, and who had to register, that person desiring and making an application to some

2002

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local board for deferred classification under the law?
A. As I understand your question, yes.

Q. You now understand my question, and answer yes. You did that under the Selective Service Act, under the requirement that a person who wished deferred classification on religious grounds had to get an affidavit from some member of his religious organization to the effect that he was a member, and setting forth the principles of the organization? A. Yes.

2003

Q. Those were the circumstances under which you signed and swore to this affidavit? A. Yes.

Q. I show you a letter marked in the indictment Schedule D, dated October 19, 1917, and addressed to "Dear Jerry," and signed, "I am your brother, John DeCecca," and ask you when you first learned of the existence of that letter? A. At this trial, or in the indictment.

Q. Did you ever have any knowledge, directly or indirectly, that that letter had been written? A. I understood that when Mr. DeCecca had been arrested it was in regard to some letter, but I didn't see the letter, and had no knowledge.

Q. Please answer the question.

2004

(Question read by the stenographer.)

A. No, sir.

Q. And you learned of it for the first time when Mr. DeCecca was indicted by the United States Government? A. Yea.

Q. Did you authorize, or consent, or have any knowledge, he wrote that letter at the time he did write it? A. No, sir.

Q. And is your statement also true of the letter dated October 26th, 1917, addressed to Mr. Jerry DeCecca, Camp Devens, Ayer, Mass., "My Dear Brother Jerry," and signed "Giovanni DeCecca"? A. Yes.

Q. And when did you first learn of that letter? A. In connection with this trial.

Q. Is that also true of the letter dated November 14, 1917, addressed, "Dear Jerry DeCecca, Depot Brigade, Camp Devens, Ayer, Mass.," and signed, "Giovanni DeCecca"? A. Yes, sir.

Q. Is that also true of the letter dated Oct. 16, 1916—I assume that is a mistake in the indictment?

Mr. Buchner: Yes; 1917.

Q. Which is dated Oct. 16, 1916, in the indictment, but which the Government claims is Oct. 16, 1917, addressed, "Our Dear Brother Jerry," and signed, "Grace and John"? A. Yes.

2006

Q. Is that also true of the letter dated October 24, 1917, "Our beloved Brother Jerry," and signed, "Grace and John"? A. Yes.

Q. So that the sum and substance of your testimony in reference to the so-called DeCecca letters is that you did not know that they had been written by Mr. DeCecca to his brother, and you had not been consulted about them, and did not give your consent to the sending of them? A. That is correct.

Q. I show you a letter attached to the indictment, being Schedule G6, dated January 28, 1918, addressed to "Mr. Jerry DeCecca," and purporting to be signed by J. F. Rutherford, and ask you whether you ever saw that letter until after the indictment in this case? A. No, sir.

2007

Q. I show you a letter dated January 21, 1918, and ask you whether you knew of the original of that letter? A. No, sir.

Q. I show you Schedule I-2, dated February 15, 1918, signed, "Dear Brother Nicita," and signed, "Your brothers in Christ, Watch Tower Bible & Tract Society," and ask you whether you read that letter, or knew of its writing? A. No, sir.

Q. The Cuminetti letter, which was originally printed in the "Watch Tower," in December, 1915, I should say 1916, was reprinted in the March 1, 1917 issue, and can you state whether you read that letter in the March 1st issue? A. I may have noticed it, having read it previously in the earlier edition.

Q. Mr. Van Amburgh, have you anything to do with the giving of the orders for the "Bible Students' Monthly"? A. No, sir.

Q. That is under the direction of some other person? A. Yes.

2009 Q. I show you Government's Exhibit 23 in evidence, and ask you whether you gave that order? A. No, sir.

Q. Or did you know that it was given on October 17th, or thereabouts, 1917? A. No, sir.

Q. I show you Government's Exhibit 14 in evidence, and ask you if you know when that "Bible Students' Monthly" was originally issued? A. No, sir.

Q. You don't know when it was originally issued? A. No, sir.

Q. This Volume 8, No. 4, marked on it, indicates when the original was published? A. I had nothing to do with the giving of the order for the printing of the "Bible Students' Monthly."

2010 Q. Did you read this issue? A. I have since the trial began.

Q. But prior to the trial you did not? A. No, sir; I did not.

Q. And that quotation from Jack London, or the reading of it in part here the other day, is that the first knowledge that you had that any such quotation was contained in this "Bible Students' Monthly"? A. Yes.

Q. Your signature is to that check, I believe, Mr. Van Amburgh? A. Yes, sir; that is my signature.

Q. You signed that as treasurer of the Watch Tower Bible & Tract Society? A. Yes.

Q. In payment of an indebtedness of the Watch Tower Bible & Tract Society? A. So I was informed by the audit department.

Q. Do you know of your own knowledge, or was anything said to you by the audit department, whether that was a check on account to apply on the general account, or was it for any specific item of printing? A. I should say on the general account.

Q. I show you Government's Exhibits 2a to 2j, inclusive, being the orders to W. B. Conkey & Company for the printing of "The Finished Mystery," and ask you if you knew that those orders were being given from time to time as the various books were sold or disposed of and new ones were required? A. I knew it in a general way.

2012

Q. I show you a book entitled "Millennial Dawn," Volume I, on the front of the cover, "The Divine Plan of the Ages," copyrighted 1886 by the Watch Tower Bible & Tract Society, and call your attention to the second paragraph. When did you first learn of that book and the statement in the preface as contained in that paragraph? A. Somewhere about 1897 or 1898.

Q. And from that time down to the time of Pastor Russell's death, was it your information that the seventh book was to be published in order to complete the series? A. Yes.

2013

Mr. Sparks: I offer that part of this book in evidence, the preface.

Received and marked Defendants' Exhibit G in evidence.

Mr. Sparks: I will just read two lines, if the Court please. It is copyrighted in 1886 by the Watch Tower Bible & Tract Society.

CROSS-EXAMINATION by Mr. Oeland:

Q. Mr. Van Amburgh, you say that you became an ardent student of the Scriptures and that you con-

2014

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sidered that the books written by Pastor Russell were a correct interpretation of the Scriptures? A. Yes.

Q. And the books he wrote relate to what you term, as I understand it, the second coming of Christ?

A. Very closely related with that.

Q. He was attempting to foretell by the Scriptures the date of the second coming of Christ? A. Yes.

Q. That is what you understood? A. Yes.

Q. And for a long time he called your doctrine, it was sometimes called the "Millennial Dawn"? A. Yes.

2015 Q. That relating, of course, to the beginning of the Millenium? A. Yes.

Q. That was what you understood as the second coming of Christ? A. I understood our Lord—

Q. No, to save time you understood the Millenium was the second coming of Christ? A. Yes.

Q. And that the Millenium was a time of good, evil would be destroyed? A. During that time, yes, sir.

Q. He phophesied, did he not, the Millenium would start in 1914? A. No, sir.

Q. What date did he fix? A. He did not prophesy at all.

Q. What construction did he put on the Scriptures?

2016 A. He indicated the beginning of the seven thousand years or Millenium would be 1874.

Q. How is that? A. He showed from the Scriptures—

Q. What date did he fix the Millenium would start? A. October, 1874.

Q. The Millenium would start then? A. That was the beginning of the seven thousand years.

Q. Was that the beginning of the Millenium? A. The seven thousand years would be—

Q. Then it started? A. In 1874.

Q. Then your theory is, we have been living in the Millenium since 1874? A. Yes.

Q. I thought you told me first there was to be entire good, that evil would be destroyed? A. I did not say it would start instantaneously. I said during that time evil will be put down and good will be restored, because Christ—He must reign until all opposition is put down; He will reign until the opposition is entirely put down.

Q. When is the real Millenium to start? A. Chronologically in 1874.

Q. That is what I thought you told me a moment ago, you meant by Millenium a good time, evil is to be abolished, the lion and the lamb will lay down together? A. That is the beginning. It all don't start at once—and that takes one thousand years to accomplish.

2018

Q. Then the Millenium is progressing, and the good will not be accomplished for a thousand years? A. The work of the Millenium.

Q. Didn't you also teach that the ancient rulers would be resurrected and become the rulers? A. We understand that during this time the ancient rulers of the House of Israel will come back as human beings and become princes on the earth.

Q. That is that David, Solomon and all those that you call ancient worthies should rule the civil world?

2019

Mr. Fuller: I suggest the witness has not used the words "ancient worthies." Mr. Oeland should use what the witness said.

The Court: No, it would be to destroy the purpose of cross-examination. The examiner is not limiting—is not to be limited to using only such terms as the witness uses because that would destroy the effect of the examination.

A. When they are resurrected and brought upon this earth and installed in office by Christ, I understand that will be the case.

Q. That they shall be the civil rulers? A. Yes.

Q. What time was set for that? A. I first thought it might be 1914.

Q. Then the date set for that was 1914? A. Not absolutely, that was the conclusion drawn.

Q. Did you draw that conclusion and publish it as a conclusion? A. Yes.

Q. In 1914. So far as you know, that has not been accomplished yet? A. No; I have never met that.

Q. That time was to be the return of Christ, the second coming of Christ? A. No, sir; I understand Christ returned in 1874.

2021 Q. That He is right here? A. Christ has been here; He will be here forty-four years.

Q. In whose person? A. Not as a human being. Christ is not to return as a human being; He gave His life as a ransom for the world. To take back His life would be to sacrifice the ransom price.

Q. Did you prove He would return in 1874? A. I proved it to my satisfaction.

Q. Isn't that in contradiction of what Christ said: "I will return like a thief in the night, My return will be instantaneous; no man will know of it"? A. No, sir.

2022 Q. Didn't He say that? A. Yes. That is not in contradiction. I would like to ask you a question: Did you know a year ago you would be here?

Q. No. But I hoped very strongly that I would. A. Here in this court?

Q. No; I never dreamed of it. A. Christ said He did not know the hour or the day He would return.

Q. But when he said in the book, "The day I come no man knoweth. I shall come like a thief in the night." A. No man knew it then.

Q. I thought He said when He came no man would know it? A. The Apostle said, "You are not in dark-

ness." The Apostle said when Christ was about to return the people would know it.

Q. I thought at His second coming there was to be no wars, or rumors of wars? A. Yes.

Q. We have been in pretty serious trouble since 1874? A. Yes, but it doesn't say He shall put down wars immediately.

Q. Didn't you teach that all wars and rumors of wars were to cease in 1874, and these ancient worthies were to return and have peace upon the earth? That is what you call Millennial Dawn? A. Not 1874.

Q. 1914? A. Our understanding is the Kingdom was to be fully restored. 2024

Q. In 1914? A. That is our understanding.

Q. Do you consider that you made a mistake about that? A. About the identical date.

Q. Then your prophecy is incorrect as to that? A. That is not a prophecy, it is an interpretation.

Q. Your interpretation? A. Our interpretation was incorrect in that particular.

Q. If it was incorrect in that particular, that was one of the vital particulars? A. No, sir.

Q. It might be incorrect in others? A. That is a possibility.

Q. Do you agree with Mr. Woodworth that all ministers of the Gospel are hypocrites? A. No; I did not understand him to so state. 2025

Q. Didn't you hear him say that a great majority were hypocrites? Do you agree with that sentiment? A. I think many—

Q. Do you believe in the statement made by him? A. I would not state it in exactly those words.

Q. How would you state it? A. I would say a man who enters the ministry is supposed to be following Christ. Christ says: "Ye are not of this world. I have chosen you out of this—Ye cannot follow God and mammon." Therefore, when a minister takes the

2026

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position, he has to be a follower of Christ and not be a follower of the masses, then he must be a minister or man of the world.

Q. Do you agree with him that a great majority of the ministers are hypocrites? A. No, sir.

The Court: He did not say a great majority.

Mr. Oeland: I have forgotten his exact language. My purpose is this—

2027

Q. You have stated to me in your interpretation of the Scriptures you made a mistake. Wouldn't you be that considerate of other people who make mistakes, as they make mistakes? A. Yes.

Q. Why do you charge ministers as being hypocrites; that don't coincide? A. Because I met several who acknowledged to me that they did not believe what they were teaching.

The Court: Let him tell who they were.

The Witness: I don't believe you know them here, acquaintances in far different places.

The Court: Who are they?

The Witness. S. D. Works of Huron, South Dakota.

2028

Q. What is he a minister of? A. He is a member of the Baptist church. He has since left it and went into the real estate business. Another man is a man now dead, Mr. Newhouse, I believe it was. The minister of a church of which I was a member for some time.

Q. He is dead now? A. Yes.

The Court: Get his first name.

The Witness: I don't recall now, it is nearly twenty years ago.

Q. Of what church? A. The Methodist church in Huron, South Dakota. In talking with several ministers—

Q. Give us the names. A. I cannot give you the names in this case.

Q. Is that all the names you can give? You said you talked with several who said they were preaching something they did not believe? A. All I recall off-hand. I can give you instances where I talked with several in conjunction.

Q. The ones you knew are either dead or gone in the real estate business? A. As far as I know.

2030

The Court: Ask him if that man in the real estate was expelled from the church?

The Witness: He left the church because he did not—I will modify that by saying the last I heard he was keeping a saloon.

Q. Did he tell you he was preaching doctrines he did not believe?

The Court: Did your information come from him direct?

The Witness: Direct; yes.

The Court: When and where?

The Witness: Huron, South Dakota. I was living there that time and we were talking over doctrines, as we frequently did. I made some remark and he said: "My bread is not buttered on that side." I also think now of another.

2031

Q. Don't leave him. A. I—

The Court: Get the time.

The Witness: I can't recall. He was at my office; I was at his home many times.

2032

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Q. Is that all he said? A. That is the epitome of what he said.

Q. Who was present? A. No one but he and I.

Q. You cannot give the date? A. No, sir.

The Court: The place?

The Witness: Huron, South Dakota.

The Court: In an office, church, railroad station or where?

2033

The Witness: We were frequently together, he would be in my office, I would be at his home, on the streets, he and I were quite good friends at that time.

Q. You wouldn't be a friend to a hypocrite, would you? A. I did not recognize him in that sense. I was talking, something came up. He said, "My bread is not buttered on that side."

Q. Is that all he said? A. No, but I said on this point—

Q. On that point is that all he said? A. I don't recall now whether it is all or not. I know that point struck me particularly.

Q. How long did you continue to be friendly with him? A. I don't know.

2034

Q. Many years after that? A. He left the City first. Where he went to I don't know. I didn't keep in close touch with him.

Q. Have you told us all he said? A. He simply said his bread was not buttered on that side? A. That was all said in a dozen conversations. That would be consistent. I said that was a remark made in the course of our conversation that would imply he could not teach what he thought, because he did not get paid for that.

Q. That is the interpretation? A. That is what he said.

The Court: Then you don't claim he said to you in substance he was preaching doctrines he did not believe himself?

The Witness: That is what I understood.

The Court: No, whether he believed that, not the substance.

Q. The minister did not say, "I am preaching a doctrine I do not believe"? A. Not in that many words.

Q. He said, "My bread is not buttered on that side," and you construed that to mean he was preaching a doctrine he did not believe? A. That is what I understood him to mean and I intended that I should understand.

2036

Q. You said there were several others you had in mind? A. I recall one other. I can recall his name. A minister in the Second Advent Church.

The Court: Find out if any of these ministers admitted they were preaching doctrines they did not believe, or if it is merely the witness's construction.

Q. You place your construction upon the words used by the particular minister. Did any of them say to you, "I am now preaching a doctrine I do not believe," like this reference to a bull you have here? A. The men I have in mind did practically make that statement.

2037

Q. Who? A. The minister in the Second Advent Church holding services in Huron. Being interested in the Second Advent of Christ we came together to talk over things quite often. I asked him along certain lines and said, "If that is so, why do you not preach it?" He made practically the same reply, "My bread is not buttered on that side." In other words, he got his living for preaching as he did, not as he believed.

Q. Did he say that he got his living from preaching not what he believed? A. I gave you the words he answered in reply to my question: "Why do you not preach it?" He replied, "My bread is not buttered on that side." I said, "Then you are preaching for money instead for Christ."

Q. What did he say to that? A. He simply said nothing.

Q. He didn't say anything? A. That is what I recall.

2039

Q. What is his name? A. I am thinking, I am trying to recollect, it was a good many years ago, it was in Huron, South Dakota. I was talking to several ministers at a conference of the Methodist Church in Huron, three or four of them, and they practically admitted—

The Court: Not practically.

The Witness: We were talking along the lines of eternal torment and they had been preaching the doctrine of everlasting torment for all those who did not accept Christ. I said "Do you honestly believe that personally?" They said, "Well, I don't say as we do." I said, "Why do you preach it then?" They practically made no answer.

2040

Q. They did not say they were preaching something they did not believe? A. They admitted they were preaching that doctrine and they admitted they did not believe it themselves.

Q. There are a great many differences of opinion of future torment. People make a mistake on the second coming of Christ the date of the Millenium. Wouldn't you yield to some other people the right to make an error about eternal torment, or would you condemn for that, because they had made an error? A. No, but they admitted they were preaching something they did not believe.

Q. Are all the hypocrites in the ministry in Dakota?

A. That is where I happened to have my experience.

Q. How long have you been away from Dakota?

A. Eighteen years. I have not come in contact with ministers here.

Q. Do you think the ministers are improved since?

A. I am not in close contact with ministers.

Q. The language used by Mr. Woodworth was: "In my judgment ministers of the Gospel are the greatest collection of hypocrites that ever existed upon the face of the earth." Is that your sentiment? A. I would not express it, I don't think I have a right to condemn others. I am not their judge.

2042

Q. That is not necessarily condemnation, it is what you think? A. No, I do not as a whole.

Q. Do you as part of a whole? A. I think many are preaching doctrines of evolution not to be found in the Bible.

Q. Errors of judgment, aren't they? A. Yes.

Q. You made an error in judgment when you said the Millenium was to be 1914? A. That is an incidental matter. But I understand the teaching of evolution to be a very substantial matter, fundamental matter.

Q. Isn't it your doctrine that you may make a mistake but nobody else can? A. No, sir. "Who are thou that judges another man's conduct."

2043

Q. I am not judging anybody's conduct. Don't repeat it on me. A. I am asking myself what right have I to judge others.

Q. From this bad association with a few preachers in Dakota, do you think all the ministers are hypocrites? A. Not all of them.

Q. Was there anything peculiar about this book, "The Finished Mystery"—you answered Mr. Sparks, that was not gotten out by the Watch Tower Bible & Tract Society? A. Yes.

2044

William E. Van Amburgh

Q. Mr. Sparks asked you a question, that wasn't gotten up by the Watch Tower Bible & Tract Society, and you said no. Is there anything peculiar in its genesis or origin? A. Seemingly so.

Q. What was it? A. The way in which it came about.

Q. You had a committee there to pass upon publications of the Watch Tower Bible & Tract Society?

A. An editorial committee?

Q. Yes. A. Yes.

2045

Q. Didn't the Board of Directors claim the right to pass upon anything before it could be printed in the way of a book? A. Not that I know of.

Q. They did publish this book? A. Yes.

Q. You are an officer of the Watch Tower Bible & Tract Company? A. Yes.

Q. You knew they were publishing it? A. Yes.

Q. You knew they were issuing it? A. Yes.

Q. Who O K's a book before it is published? A. The president.

Q. Who O K'd this one? A. The president, Mr. Rutherford.

2046

Q. I thought you had an executive committee, Mr. Woodworth or Mr. Fisher said an executive committee must pass on it. Weren't you a member of the executive committee? A. For two months.

Q. At what time? A. From the death of Pastor Russell to the election of officers, January, 1917.

Q. Who were the officers? A. Mr. Rutherford, president; Mr. Pierson, vice president; Mr. Van Amburgh, secretary and treasurer.

Q. Didn't they constitute the executive committee? A. No, sir.

Q. Didn't you pass on this book? A. No, sir.

Q. Didn't you see it? A. The first I saw of it was some of the manuscript in May, 1917.

Q. Did you read it? A. Part of it, yes.

Q. When did you next see it? A. The next I saw was of the finished book in July, 1917.

Q. What conversation did you have about the part of this manuscript you saw? A. Mr. Rutherford handed me some manuscript one day and said "Mr. Van Amburgh take that and look it over and see what you think of it?"

Q. What did you do? A. I took it home, and began to read it as I had opportunity.

Q. What report did you make? A. I was busy, I looked it over hurriedly, as much as I could. He said, "What do you think of it?" I said, "As far as I can see it looks pretty good to me. I think it is a good interpretation of Revelations."

2048

Q. You knew about its preparation? A. From May, 1917.

Q. From May, 1917, until it was turned out in finished form in July, 1917, you knew it was in process of preparation? A. Yes.

Q. Who did you talk with about it? A. The only conversation I had with anyone was with Mr. Rutherford.

Q. How often did you talk with him about it? A. I don't recall ever talking with him but once.

Q. When was that? A. That was prior to his giving the first order.

2049

Q. You mean the order for publication? A. For printing.

Q. When was that order given? A. Somewhere in the early part of June.

Q. You knew of it then? A. Yes.

Q. You knew the book was then ready for publication? A. For printing, that is established, isn't it?

Q. What did you say to him then about it? A. We met in the parlor one day. He said, "Have you read that manuscript?" I said, "I have read parts of it." He said, "What do you think of it?" I said, "As

far as I see I think it is pretty good." "There are some points I cannot see, I haven't read them thoroughly enough to pass on them." He said, "Do you think it is a correct interpretation of Revelations?" I said, "So far as I understand, it is a correct interpretation of the Scriptures." He said, "Do you think we should have it printed?" I said, "If you think that is a proper thing, you, as president of the society, as the Lord's representative, go ahead and print it."

2051 Q. You advised him to print it? A. Yes. He said, "How many ought to be printed?" I said, "It will never have much of a sale, you couldn't sell over fifty thousand." "We have only forty-five or fifty thousand subscribers. I don't think you will sell it to anybody else until after the time of peace people will not be interested." He said "Don't you think we could sell over fifty thousand?" I said, "People in general are not interested, so much symbols in there, they wouldn't be interested." I thought if he printed it fifty thousand would be plenty.

Q. What did you say to Mr. Rutherford, that you thought fifty volumes would be enough? A. Fifty thousand.

2052 Q. When did you learn you ought to have more? A. He said he thought possibly they might use more. "What do you think about seventy-five thousand?" I said, "It is up to you, I am not the manager, if you think seventy-five thousand can be disposed of, why tie up a lot of money that could not be used?"

Q. Who paid for it? A. I was going to say. He said, "Do you think that it would be right to take this out of the Watch Tower Bible & Tract Society money and pay for it, unless the Board of Directors passed on it?" I said, "I haven't thought of that." He said, "I want to tell you something. A friend has handed me several thousand of dollars, and I can use

it in this work." I said, "Then you don't need to draw upon the 'Watch Tower' money. Go ahead, that may be the Lord's way of supplying the money without drawing it."

Q. Was it paid for by outside money? A. Yes, the first of it.

Q. How much of the first? A. The first order, I don't recollect, three or four thousand dollars.

Q. Who paid for the balance? A. At that time the returns began coming in from the friends who had received the volume.

Q. Didn't the "Watch Tower" pay for the other publications? A. Yes. 2054

Q. I don't care whether it came from the friends? A. You do not understand. A copy of this was sent to each subscriber with a statement if they desire to keep it they could send sixty cents. This was the money I referred to by the friends, returned from the subscribers.

Q. You knew it was being prepared for publication; you knew contracts were allowed for its publication; have you seen it since it was published? A. Yes.

Q. You paid money for the publication? A. Through the society, yes.

Q. All the corporations had something to do with getting it out, didn't they? A. In a way. 2055

Q. In what way? A. The Watch Tower Bible & Tract Society is noted as one of the interested parties. The People's Pulpit Association being the working organization in New York State, it was suggested the copyright be taken out in that name.

Q. Who suggested that? A. I don't know.

Q. You can't remember that? A. No, sir, that was a later consideration. Then the International Bible Students' Association, it was suggested that be put upon the title pages, because all three were put upon the title pages of the books before then.

Q. It is the general product of the three corporations? A. In a sense of the words.

Q. All had a name in it? A. Yes, sir.

Q. You read it in July, 1917? A. No, sir.

Q. Did you ever read it? A. I have read it, yes.

Q. When? A. I guess I was three months reading it.

Q. Did you start on the 17th of July? A. I don't recall that I did. We were very busy that day.

Q. When did you finish reading it? A. I haven't finished it yet.

2057 Q. I thought you said three months. That would be studying it. You read it through? A. I read it through hurriedly. That took three months. It is not written connectedly and the statements are symbolic and to read it and understand it you must take the Bible and study things upon it.

Q. Did you see anything objectionable in it? A. No, sir.

Q. When did you finish reading it? A. A couple of months, two or three.

Q. You approved of everything you read in it during those two or three months? A. No, sir.

2058 Q. What? A. One part struck me peculiarly was the measurement of the distance between Brooklyn and Scranton.

Q. You could not follow that? A. I laid it on the shelf, as I do with studying the Bible. I don't say it is wrong. I say I couldn't see it yet.

Q. At that time you couldn't exactly follow the letter of that interpretation? A. No.

Q. Of the writer? A. No.

Q. It looked peculiar? A. Not now. I tried to find a better conclusion. I said that is the best one I ever found. When I find a better one I will accept that.

Q. That is the only part you objected to? A. I did not object, I said I could not accept it.

Q. That was the only part you could not accept?

A. That was one.

Q. Any other? A. I think its interpretation of Naom, referring to the railroad was peculiar. I thought that referred to automobiles.

Q. He construed it as railroad and you construed it as automobile? A. The Bible said, "They shall jostle one another in the streets, they shall run like lightning, and make noises in the highways." Wasn't Naom—

2060

Q. He was speaking about warriors, wasn't he?

A. I don't know. My interpretation was, it was the automobile.

Q. Are those the only ones you excepted to? A. That is all.

Q. That you entirely agreed with that portion of it where he said, "Patriotism was born of the devil"?

A. I do not recall seeing that passage until called to my attention last March.

Q. Didn't you read it? A. If I read it I did not notice it.

Q. Do you agree with it now? A. I would not state it in that way if I was stating it.

2061

Q. You had the book with you? A. Yes.

Q. You knew that it was circulated by the thousands, and tens of thousands? A. Yes.

Q. You were receiving money for its circulation? A. Yes.

Q. You say that made no impression? A. It didn't impress my mind enough. I was not thinking of anything political in it. I was looking at it from a religious point of view.

Q. Do you think it is political now? A. It seems political.

2062

William E. Van Amburgh

Q. That is your construction? A. No, I do not believe it is political now. I stated when it was called to my attention in March, I said "That cannot be true of the United States. The United States has always stood for liberty, and always stood for the liberty of people, it couldn't refer to United States patriotism."

The Court: Wouldn't that make you notice it at first reading?

The Witness: No, sir.

2063

The Court: You would be likely to notice everything at the first reading you didn't think was so?

The Witness: If I read it, I took it as a note on that text, and never thought of it in a political way at all.

The Court: Never mind whether you thought of it in a political way. The question is, did you read it?

The Witness: I say if I read it it didn't make an impression enough upon my mind to recall it.

Q. How about the Jefferson doctrine there? A. The same thing is true about that.

Q. Didn't you read that? A. I may have read it, but if I did it didn't make enough impression on me to recall it.

2064

At this point a short recess of five minutes was taken.

WILLIAM E. VAN AMBURGH, recalled, testified:

Cross-examination by Mr. Oeland:

Q. Did you read this portion of the book, Mr. Van Amburgh, referring to the war: "If you say that it is fought for the security of American property and

lives, I must ask you how and to what extent it will be safer for our citizens to cross the seas after the declaration of war than it was before? A. I don't recall it.

By the Court:

Q. The question is whether you read it? A. I may have read it.

Q. What is your best recollection? A. I presume that I did.

By Mr. Oeland:

Q. (Reading.) "If you say that it is fought in vindication of our national honor, I must ask you why no harm has come to the honor of other nations, such as Holland and Scandinavia, for example, which have suffered even more than we, but which, for prudential reasons, refuse to take up arms? A. The same answer would apply.

2066

Q. You don't know whether you read it or not? A. I presume I did. I do not recall it.

Q. You read the whole book? A. I read it through hurriedly, yes, sir.

Q. You knew at the time that you read it that we were in the war? A. Yes, sir.

Q. You could not read this article without being impressed with the idea that it related to our going into the war? A. It never impressed the public it would have any influence at all on the war—

2067

Q. Didn't it impress you with the idea that it related to our going into the war? A. I presume that I would get that thought if I did it, and I presume I did.

Q. (Reading.) "If you say it is a war of defense against wanton and intolerable aggression, I must reply that every blow which we have endured has been primarily a blow directed not against ourselves but against England, and that it has yet to be proved, and

so forth." Did you read that? A. I presume I did. I took it as the author's quotation.

Q. You knew you were circulating that, though?

A. Yes, sir.

Q. And you intended to circulate it? A. Yes, sir.

Q. (Reading.) "If you say that this war is a last resort in a situation which every other method, patiently tried, has failed to meet, I must answer that this is not true—that other ways and means of action, tried by experience and justified by success, have been laid before the Administration and wilfully rejected." A.

2069 The same answer would apply.

Q. If you read it, what did you think the man was talking about? A. I presume he was talking about the war. He could not be talking about anything else, probably.

Q. You understood him to say that every other means had been laid before the Administration and wilfully rejected? A. I do not recall what I thought. If I read it, I read it as a comment upon Scripture, and here was someone who brought in a corroborative thought.

Q. You knew what those words meant, didn't you? A. I presume so.

2070 Q. You knew what "wilfully rejected" meant? A. I presume so.

Q. And it was laid before him with his eyes open and he absolutely rejected it? A. I did not know that that thought entered very sharply into my mind as I read it over hurriedly, as I might in reading a newspaper article and not get the full meaning of all the words in it.

Q. Did you read "that the war itself is wrong. Its prosecution will be a crime"? A. I presume I did.

Q. You knew what that meant? A. I presume I read it in the same way.

Q. After you read it you persisted in its circulation? A. Yes, sir.

Q. And with full knowledge of the language used? A. I do not recall that I noticed that article the way it is there now.

By the Court:

Q. These other statements that you did not concur in you laid on a shelf, so to speak, for further consideration? A. Yes, sir.

Q. Did you lay any of this on the shelf for further consideration? A. The same way in regard to the Bible—

2072

Q. Did you lay any of these statements that counsel just called your attention to on the shelf for further consideration? A. In my mind I assume that I did, if they impressed me. If I do not recall it, I don't know—

Q. Did you lay any of these on the shelf? A. No, I did not.

Q. Then you concurred in them, did you not? A. I presume so to that extent.

Q. You presume so? A. I simply say this because I did not recall that I was impressed enough with them to think of them a second time.

2073

Q. When you wrote them you were opposed to the war? A. Yes, sir, in that way.

Q. They spoke your sentiments—did you entertain them? A. I presume so.

Q. No doubt about it, have you—they were exactly your sentiments? A. That I concurred in those, that is?

Q. Yes. A. I do not so recall, your Honor.

Q. You were opposed to the war? A. Yes, sir.

Q. At the time you read the book? A. For myself, but not for the nation.

Q. You were opposed to any one of your Christian belief entering the war as a soldier? A. Each one would decide that—

Q. You are opposed to that? A. I am opposed myself to entering the war, yes, sir.

Q. You believed anyone of your Christian belief should not enter the war? A. Yes, sir, I presume so.

Q. So the book expressed your belief in that regard? A. I did not put it down—

Q. The book expressed in those respects your belief? A. I presume so in a general way.

2075 Q. Exactly expressed your exact beliefs, did it not? A. I do not recall your Honor. I am using the very best memory I have got, your Honor, and if I had a better one I would certainly use it.

By Mr. Oeland:

Q. Would you tell the jury that the fact that the United States was in this war was of so casual a moment to you that you did not consider anything like this, where the charge was made that the war was a crime? A. I think that would be true, Mr. Oeland, because my whole attention was given to religious topics and religious studies and trying to make myself acceptable to God, and what God is doing to the nations is a different matter with me entirely. It is not my concern what God is doing with the nations.

2076 Q. You are perfectly willing to reap any benefit that may come in the form of protection by your Government? A. Yes, sir.

Q. And conscious of that fact, did this express your sentiments when it said that the entrance of the United States into the war was a crime—the substance of that? A. I did not catch your question, sir.

Q. Did this meet with your approval, this sentiment that the entrance into the war was a crime and that it was not worth the life of one soldier? A. I

would not so understand it, sir, if I get the point of your question.

Q. Did you read this place, its prosecution will be a crime? A. The same answer would apply, Mr. Oeland.

Q. If you thought it was right that the United States should go into the war you would not think that its prosecution would be a crime, would you? A. Not for the United States, no, sir.

Q. Did you read that part of the book? A. I presume I did.

Q. It was of so little importance it made no impression on you? A. I was interested in my religious matters. My whole life has been along religious lines and whatever protection is granted to me is granted by Jehovah. I made a contract with God and he guaranteed to protect me, and I signed a contract that I would serve Him, and therefore when I put myself under the protection of God Almighty He has guaranteed to keep me under His protection until such time as he is ready for me to go home—the extent of the whole Testament is protection—the protection of Daniel in the lion's den, and He protected the Hebrew children in the fiery furnace. So He has the power to defend everyone of these people—I therefore look to God for my orders; this other would be incidental—

Q. Then you think it is wrong for the United States to make war—wage war? A. That is the United States' business; it is not mine.

By the Court:

Q. That is not the question. The question is what you think about it?

By Mr. Oeland:

Q. Don't you think, in view of what you just said, that it is wrong for the United States? A. No, sir,

2078

2079

because I do not understand that the United States ever entered into a contract with God. If the United States had entered into a contract with God, then for them to go to war would be a crime.

Q. Then do you think that it is perfectly right for them to wage war? A. I do from their standpoint, yes, sir.

Q. Looking at it from their standpoint and looking at it from your standpoint, don't you think that this statement that the war was a crime would interfere with their waging war? A. No, sir.

2081 Q. Did not you expect people to believe that? A. I didn't expect it to go out to people except to our own classes—

Q. You tell this jury that you did not expect, when the editions were reaching up into the 850,000 volumes that the book would be sold to the public generally? A. I was so surprised at the call for the book that I was amazed.

Q. Will you tell the jury that when the edition began to reach up into the hundreds of thousands that you thought they were all being sold to your class? A. No, sir, I did not make that class.

2082 Q. After you found out it was being sold indiscriminately all over the world, isn't it your opinion that that phrase would be injurious to these United States, that you say has made no contract with God, that that would be injurious to her in protecting herself and in recruiting? A. I never thought of it in that light.

Q. Paid no attention to it? A. No, sir. There are so many good things in the book calling attention to what God is doing—there are so many things in the Bible that I cannot agree with, and I have been putting out the Bible all my life.

Q. You became very much interested in this draft act, didn't you? A. Yes, sir, on account of the letters received.

Q. About this time, when this book was being circulated, you began to receive a great number of letters from people about the draft act? A. This society did, yes, sir.

Q. And you saw these letters? A. Some of them.

Q. And you knew they were making inquiries about the draft act? A. Yes, sir.

Q. Then you did know that there were inquiries coming from all over the United States about the draft act? A. From our friends, yes, sir.

Q. Didn't you stop to think that maybe this clause: "The war itself is wrong. Its prosecution will be a crime"—that that might be the cause of some of these inquiries coming in about the draft act? A. No, sir, never entered my head. They were all conscientious objectors, as far as I knew, who already have made up their minds before the book was published. If that book was never published and the draft act had come up, the inquiries would be just the same.

2084

Q. How do you know? A. Because I have talked with people.

Q. Did you talk with people about the possibility of going into this war and whether or not they would serve in the draft act before they went into the war? A. I may have talked with some. When the war started over in the old country and the possibility of the United States going into the war was talked about I heard some statement that if the war should come to this country they did not see how they could conscientiously go into it, because of their contract with God.

2085

Q. You just said that this matter would come up about the draft act if the book had not been published, because you talked with people. Who were the people that you talked with about the United States going into the war? A. I never talked with anyone except the people in the society, so far as I know.

Q. Who were they? A. I can't give you the names of them.

Q. When was it? A. I remember several occasions. I have simply in mind the general thought. Sometimes when I was down to a meeting the question might come up.

Q. Did they say they were against the United States going into the war, and, if so, they were opposed going into the draft? A. No.

2087 Q. What did you say about the possible draft act? A. Just the general thought. If the United States should go into the war and if there should be a draft act I do not see how I could conscientiously go in, because I am consecrated to God.

Q. How many people did you hear say that? A. I presume a dozen.

Q. And you got a thousand letters, didn't you?

Mr. Sparks: I object to it, as assuming something that is not in evidence.

The Court: Admitted.

Mr. Sparks: Exception.

By Mr. Oeland:

2088 Q. You heard two or three or a dozen people speak about the draft act, and after the draft act was passed you got a thousand or more letters, didn't you? A. I do not know how many.

Q. Did not you just answer my question? A. I said a great many.

By the Court:

Q. You required two extra stenographers to answer them? A. Not for myself personally.

By Mr. Oeland:

Q. How do you explain this— A. Because the same condition would be brought about, Mr. Oeland.

A conscientious objector would be a conscientious objector because of his belief in God, and I did not understand that this seventh volume had any effect upon any of those who had made up their minds.

Q. How many letters did you write about the Selective Draft Act? A. I do not recall. Maybe a dozen or more.

Q. Were you serving the Lord then only? A. I do not catch your point.

Q. Were you only serving the Lord then? You said when you were reading this book you had no idea about politics—looking after the Lord's things? A. 2090
Everything I do is under the Lord. When I am writing my letters, when I am walking along the street, when I am buying bread or meat—whatever I do is done under the Lord.

Q. How many letters did you get at the Watch Tower Bible and Tract Society about this Selective Draft Act? A. I do not know.

Q. Didn't you just say you received a thousand? A. I said I did not know how many.

Q. How many did you write about the Selective Draft? A. I presume possibly a dozen, maybe more. Comparatively a very small number.

Q. Did you write this letter (showing), 16 B in evidence? A. Yea, sir. 2091

Q. Did you get the letter attached to it there (showing)? A. This was turned over to me for answer.

Q. Who turned it over to you? A. The correspondence department.

Q. Who is the head of the correspondence department? A. Mr. Martin.

Q. What is the date of that? A. The letter or the reply?

Q. The reply. A. September 28th, I judge, 1917.

Q. You were still reading this book at that time, were you not? A. Occasionally, yes, sir, as I had opportunity.

Q. Did you then think that its prosecution would be a crime, to carry on the war? A. Never thought of that at all.

Q. You knew you would get many inquiries about people who wanted to keep out of the draft act? A. I never connected up this with that in any sense of the word.

Q. You knew this was a little worldly, this was not purely Biblical, but it was having to do—to deal with worldly affairs? A. Yes, sir, when a man buys a piece of meat he is dealing with worldly affairs, even though he is a Christian.

2093

Q. Did not you advise this man that: "We think your decision to go as a prisoner rather than as a soldier will be the proper one. Brother Rutherford is taking the matter in hand and upon his return next week will endeavor to obtain definite information by which to be able to gauge future actions. In the meantime we patiently wait upon the Lord and pray for you, grace sufficient for every day's need." Did you mean by that letter to advise him to resist? A. That man said he had alreday taken his stand.

2094

Q. Did you mean to strengthen him in that belief when you said, "We think your decision to go as a prisoner rather than as a soldier will be the proper one"? A. At that time as I understand—

Q. Did you mean to strengthen him in his belief? A. Till the President passed upon—

Q. You stated that the man was already— A. Had already taken his stand.

Q. Did you mean then to strengthen him in his stand by telling him: "We think your decision to go as a prisoner rather than as a soldier will be the proper one?" A. No, sir, merely said I understood he had taken the proper stand. I didn't advise him one way or the other. I didn't expect it would strengthen him at all. He had his mind made up—he

had already made up his mind ; how could I strengthen him?

Q. (Reading) : "I have received notice that the District Board has denied or rejected my claims for exemption. I shall now appeal to the President, Mr. W. Wilson, for exemption as provided in their laws of rules and regulations. If you think it will do any good you may make out a statement that I passed the V. D. M. questions. I will send it to the President and also another affidavit which I will prepare this morning. There were sent to our late secretary of the Reading Church, Brother Albert"—somebody—"six names, including my own, who passed the 85 per cent mark. The letter was written to Brother Dahlgren, December 19, 1916. I may have to go to the detention camp. I have determined to obey the Lord's will concerning me, which is, not to take, under any consideration, any service which helps the war, non-combatant or combatant. If war is wrong, then the means which are used to carry on war are wrong too"—A. He had already taken his stand—

2096

Q. With that idea that it would be wrong to take service either combatant or non-combatant, did you write him you thought he had acted right? A. Under his conscience, yes, sir. He had already taken his stand and he would be according to his relationship to God.

2097

Q. You think his position to go as a prisoner rather than as a soldier would be the proper one? A. Yes, sir, because the President had not defined yet what was non-combatant service. It was a very awkward condition.

Q. Did you believe that would strengthen him in his belief? A. No, sir.

Q. Or help to strengthen him? A. No, sir.

Q. What did you write him for? A. I wrote him that I thought it was proper just as I stated.

2098

William E. Van Amburgh

By the Court:

Q. He did not call on you for any information as to whether he would be right or wrong? A. Well, I simply said what I thought.

Q. You did that unsolicited or unasked? A. Very well.

By Mr. Oeland:

2099

Q. You had some object in doing it, didn't you, as long as he hadn't asked you for your opinion—hadn't asked your advice as to whether he was doing right or wrong—you had some object in giving him this advice? A. Well, we frequently give each other the Scripture—

Q. His conduct had met with your approval so you wanted him to know that you approved it? A. From his standpoint.

Q. From your standpoint? A. I approved his position in taking his standpoint, yes, sir.

Q. Now you read this letter before, did you not, Exhibit 15-B (showing)? A. Yes, sir.

Q. Now this man writes to you about his son. Did you know his son at all? A. I knew him and I had met his son.

2100

Q. Did you know whether his son was consecrated or not? A. I think he is.

Q. Do you know it? A. I can't say absolutely.

Q. Did you know whether or not he was a member of your organization? A. I think I went to the subscription department to ascertain whether he was.

Q. When? A. Before I answered the letter.

Q. Then a man is a member who subscribes to the "Watch Tower"? A. Not necessarily, but he has good intentions—

Q. That is what I am getting at. Then if a man wrote to you and said he had a son that wanted to

keep out of the draft, the only verification you made of that was to see if he subscribed to the "Watch Tower," that pamphlet? A. No, sir.

Q. Is that the only thing you did here? A. No, sir, I frequently did that.

Q. Did you do it in this case? A. I think I did to the best of my recollection.

Q. What would that prove? A. That would simply prove that he had been in connection with the society more or less for some time.

Q. That did not necessarily mean he was consecrated? A. Not necessarily.

2102

Q. Did not necessarily mean he was a conscientious objector? A. No, sir.

Q. Anyone you found subscribing to the Watch Tower Bible & Tract Society you would furnish them with an affidavit of membership? A. Yes, sir—no, sir, not an affidavit of membership. Did not furnish anybody with an affidavit of membership.

Q. You furnished them with an affidavit that they might use it? A. I furnished an affidavit of the statement of the belief of our association.

Q. You furnished that to anybody who applied to you for it? A. Yes, sir, that was simply a statement of the beliefs of our society, just like the Methodists send out their statements of their belief. They will sell or send it to anybody.

2103

Q. Did you sell them to anybody? A. No, sir, not one.

Q. Did you make them pay for it? A. No, sir.

Q. Never? A. No, sir.

Q. How many statements like that did you prepare? A. Altogether I think about 1,800.

Q. Wasn't it 2,500? A. No, sir.

Q. Now, this man you say you don't know whether his boy was consecrated or not? A. I had met his

father and was acquainted with him. I was writing to his father. I wasn't writing to him.

Q. You know there are a lot of men who have sinful boys? A. I have heard of some, yes, sir.

Q. All you knew about this boy's consecration was the fact that he had subscribed to the "Watch Tower" and that he had a good father? A. No, I had met him incidentally and I had a passing acquaintance with him and I had reason to believe that he also was consecrated although I had not talked to him personally so far as I can recall.

2105 Q. You had reason to believe he was consecrated because you thought he ought to be? A. No, sir.

Q. You didn't talk with him about religious subjects? A. I had met him at conventions various times incidentally—occasionally.

Q. What was his name? A. Town.

Q. You wrote him: "We have no further suggestion that we can make." His application had been rejected by the Local Board and by the District Board as you understood it? A. I understand it, yes, sir.

2106 Q. (Reading) "Except that Brother Rutherford has suggested that in cases of necessity, the brethren refuse to respond to the call and if necessary submit to arrest." Did Rutherford advise you to write that? A. No, sir.

Q. Why did you say: "We have no further suggestion that we can make except that Brother Rutherford has suggested that in cases of necessity the brethren refuse to respond to the call and if necessary submit to arrest." How did you get that idea if Rutherford did not tell you about it? A. The suggestion came up in this way, that possibly if somebody were arrested it might be necessary to proceed to what we call a habeas corpus, I believe—I am not familiar with the legal term—habeas corpus, in order that it might be decided legally as to their stand.

Q. When this boy advised you that his application had been rejected by the board you advised him and intended to advise him that he should submit to arrest? A. I was writing to his father, not writing to him personally.

Q. That is what you intended him to get? A. His father would be under any responsibility for going any further.

Q. You meant exactly what you said? A. So far as I knew how to say it.

Q. "That in cases of necessity the brethren refuse to respond to the call and if necessary submit to arrest"? A. If it were necessary for them to abstain from active service as outlined by the law of Congress that anyone who was a conscientious objector would not be compelled to go into the service, and no division had been made as between combatant and noncombatant service—that is the only thought I had in the word "necessity" there.

2106

Q. Who gave you the legal opinion on that? A. Legal opinion?

Q. Yes. A. As I said some cases had come in and Mr. Rutherford had said it might be possible some of them are arrested and then we will proceed with the habeas corpus to come up before the Court and then we will have a legal decision to go by.

2109

Q. You wanted this man to absolutely refuse any orders although he had been drafted by the local board? A. I was talking to his father. That is what I thought would be a proper way.

Q. You intended him to infer that and prevent his doing whatever the orders might say? A. Not at all.

Q. What did you mean by that? A. I understood that the law gave each man the privilege—

Q. "The brethren refuse to respond to the call"? A. If he were a conscientious objector he would have

the right to refuse to respond to the call as I understand it.

Q. The board had passed upon that? A. It is right if the board had passed upon it.

Q. You still were advising him to do nothing except to be arrested? A. That would be decided by the courts if it came to the proceeding of a habeas corpus and then we would have a standard to go by.

By the Court:

2111 Q. It had been passed by the Court—the statute of Congress had decided whether he should go in or not. A. But he was a conscientious objector, as I understand it, and he had a right to object if he were a conscientious objector, under the meaning as I understand of the law—or they might have made an error in passing him by and it would then be up to the Court to decide.

By Mr. Oeland:

Q. You didn't even know that he was a conscientious objector? A. I had what I considered good belief to think that he was.

2112 Q. What was that? A. As I said before I had met him on one or two occasions personally.

Q. You can't tell a conscientious objector just by meeting him, can you? A. Not particularly, but I think I can tell pretty quick whether a man is fully a Christian or not with a very few minutes talk.

Q. Did you have that talk with him? A. I do not recall personally, but I think I had met him.

Q. Then he subscribed to the "Watch Tower"? A. He was on the list of subscribers.

Q. That is the proof you had of his being a conscientious objector? A. Knowing his father personally.

Q. You didn't think that the father being a con-

scientious objector would inure to the benefit of the son, did you? A. I think that his father and he were in very close harmony.

Q. Did you think just because a man had a father who was a conscientious objector that the son ought to be excused for that? A. No, sir; not at all. I wouldn't use that as a basis. I had other reasons for thinking he was a conscientious objector.

Q. What were they? A. I have stated. I met him at conventions of our friends.

Q. Other people go to conventions that are not consecrated? A. Some, but that would be a pretty good inference he was interested at least. 2114

Q. Because you think a man interested he is a conscientious objector? A. Not necessarily, no.

Q. What were the marks here that made you say that this boy was a conscientious objector and you should advise him to submit to arrest rather than to do anything? A. The statement of his father in the letter, if I recall the letter correctly.

Q. Look at it (showing). Where does he say anything about his being a conscientious objector? A. A statement here that he had made that he was a member of the I. B. S. A.

Q. He don't say he was a conscientious objector? A. His father said he was a member of the I. B. S. A. If he were not a member his father prevaricated. 2115

Q. You have several members of the I. B. S. A. who are not wholly consecrated? A. Attendants, yes, sir, but his father—

Q. Go on and show where he said he is consecrated or a conscientious objector? A. The statement of his father that he was a member of the I. B. S. A. and knowing his father I would say—I would take his statement.

Q. Where do you see where he says he was a conscientious objector? A. Not in those words. The

words conscientious objector so far as I recall are not in this letter, but his father does say that he is a member of the I. B. S. A.

Q. My question is how do you know he was a conscientious objector so as to advise him to resist even to being arrested? A. I have evidence here that would to my mind imply a good belief. I do not absolutely know that anybody else is fully consecrated to the Lord.

Q. How many letters like that did you write? A. I do not recall, possibly a dozen.

2117 Q. Who gave you instructions about writing them? A. Nobody.

Q. I thought you said Mr. Rutherford? A. No, sir. I simply said he has stated that it might come to a case of habeas corpus and that in that event it would be taken to the Court to be decided. I had heard Mr. Rutherford make that statement.

Q. You testified in reference to some man by the name of Dutcher, didn't you? A. I believe I did; yes, sir.

2118 Q. You were asked: "Q. There are no prescribed rules to follow? A. No; each interprets the Bible in his own way and follows its teachings. Q. No form? A. Very little ceremony. Q. Can a man become a member by writing to you? A. Not necessary for him to do so. Q. That is, he may become a member without communicating with headquarters at all? A. Yes, if he conforms with the teachings of the Bible. Q. Is there anything in the way of dues? A. Absolutely nothing. Q. So that there may be members of this association around the country that you people at headquarters know nothing about? A. That is true. Q. There is no oath taken? A. No, sir. Q. No rules, provisions or conditions under which a man binds himself into this association? A. No, sir. We ask him two questions when we give the right hand of

fellowship: 'Do you believe that Jesus Christ died for your sins and do you accept Him as your Savior and Redeemer?' Have you made a full consecration of yourself and all that you have to the Lord, and will you endeavor to be guided by His word and His divine teachings as He shall make it clear to you.' " So there was no way, when you prepared these 1,800 affidavits, so you could tell that you were giving them to members of the organization? A. No, sir. If you had asked for one I would let you have one.

Q. Was that correct as I read it, your testimony?
A. So far as I recall; yes, sir.

2120

Q. (Reading.) "Q. Are there any rules or regulations in your association which forbids a man going to war? A. No, sir; not if he feels that it is right. Q. Anything that forbids him to take up arms for the Government? A. No, sir. It is up to his own conscience. Q. He can be a soldier and still be a member of your association? A. Yes, sir. If he feels that way about it." Is that correct? A. I think I must have misunderstood some of those questions when they were asked.

Q. That was the testimony there? A. I think that was the testimony.

Q. "Q. Are there any rules or regulations in your association which forbids a man going to war? A. No, sir; not if he feels that it is right. Q. Anything that forbids him to take up arms for the Government? A. No, sir. It is up to his own conscience. Q. He can be a soldier and still be a member of your association? A. Yes, sir. If he feels that way about it." A. My thought in answering this question was that he was referring to a stated set of rules such as the Methodists or the Presbyterians, or other denominations have put forth in so many numbered articles, such as the Methodists' article number so-and-so—one of those articles—

2121

2122

William E. Van Amburgh

Q. Why did you—

Mr. Sparks: Let him finish. You have interrupted him in making his answers. I think he has a right to finish without interruption.

2123

The Witness: I had in mind what the Methodists and Presbyterians usually have, a list of stated principles or articles numbered so-and-so and so-and-so, and probably one of those articles would mention these things. Now, then, we did not have that listed set of articles, and when I said that one could be a member of our association, I probably had in mind the attendants, because everyone is fully consecrated and I do not see how he could take this stand—

Q. It is not how he could do it, but what did you say about it? Is there any question of doubt about anything that you have answered there: "Q. Are there any rules or regulations in your association which forbids a man going to war? A. No, sir; not if he feels that it is right." You understand that question, don't you? A. I understood that referred to a set of rules that the association would lay down, such as I stated as I saw in a set of doctrines for the Methodist or the Episcopal Church.

2124

Q. (Reading.) "A. No, sir; not if he feels that it is right." Did you think that referred to rules and regulations? A. No, sir; we leave it to each man's conscience as to whether he ought to do this or not, but as an association I would say that we could not consider him a member in good fellowship if he had been admitted or fully consecrated and then went back—

By the Court:

Q. Went to war, you mean as a soldier—he would go back on it? A. So I would understand. If he was a fully consecrated member.

By Mr. Oeland:

Q. (Reading.) "Q. Anything that forbids him to take up arms for the Government? A. No, sir; it is up to his own conscience." A. It must be for him. In other words, that we individually are not to judge another man.

Q. "Q. He can be a soldier and still be a member of your association? A. Yes, sir. If he feels that way about it." A. I can't answer it the same way at the present time.

By the Court:

2126

Q. Have you got more light on it now? A. No, I do not know that I have. I don't think so.

By Mr. Oeland:

Q. "Q. How does a person cease to become a member? A. Simply refuses to co-operate with the work. The association is a mutual association of those who are earnestly endeavoring to know and do God's will and preach the Gospel as they understand it. Q. If he wants to leave the association, what does he do? A. Simply stops attending the local meetings." Is that correct? A. Practically so; yes, sir.

Q. "Q. Now, this affidavit that you made in the case of Dutcher? A. That is a general affidavit that we had made for our members. Q. Who got it up? A. Mr. Rutherford and myself. I signed it as secretary. It is not made for any individual, just a statement of our belief." That was a general affidavit made for anyone who might call for it? A. Yes, sir; and you might have one if you wish it.

2127

Q. "Q. These affidavits are furnished indiscriminately to people? A. Yes, sir. Q. The questionnaires are not presented to you to attach them to? A. No, sir. Simply a statement we got over the signature of the affidavit. Q. The reason I ask this question

is that a rumor has gone forth that they are purchasable. A. No, sir; they have to pay the notary fee, that is all"? A. We paid for the notary fees ourselves.

Q. Didn't you testify there—the question was: "Q. The reason I ask this question is that a rumor has gone forth that they are purchasable. A. No, sir; they have to pay the notary fee, that is all." Who do you mean by they? A. I meant myself. I paid for them individually, that is, from the society.

2129 Q. "Q. These affidavits which might come to the local boards attached to questionnaires, do you know that these men are members of your association? A. Why, we assume they are; yes, sir." You just assume it? A. Assume it when they make application for one.

Q. If I should go around there for one, would you assume I was a member? A. I would assume you would want it for some purpose or other.

Q. Would you assume I was a member because I asked for an affidavit? A. An assumption would not be knowledge.

2130 Q. I ask you if you would assume that. You just said you assumed that whoever called for one was a member? A. I would take that as an assumption. I would want to back it up with more proof.

Q. You were asked this question: "Q. Are there other members besides those consecrated? A. Yes, sir." A. Please read some of the rest.

Q. "By Mr. MacCleary: Q. I understand that your consecration for membership is to make a contract with God to do His will the very best he knows His will is. In other words, he devotes himself to do His will as prescribed in the Bible? A. Yes, sir. Q. Are there other members besides those consecrated? A. Yes, sir." A. I don't recall that question. I don't catch the connection.

Q. It was: "Q. Are there other members besides those consecrated?" and your answer was: "Yes, sir." As appears by the record, is that correct? A. I must have misunderstood some of it. I don't see how I could make that answer because I did not consider any members of our organization unless they are consecrated. Either the stenographer has made some mistake there, or else I misunderstood the question.

Q. You contend that every man who takes the "Watch Tower" is fully consecrated? A. No, sir.

Q. You just told me that the way you found out he was a member or not, was to see if he took the "Watch Tower"? A. I said that would be one of the indications. 2132

Q. That is the only one you adopted before you sent out the affidavit? A. I did not say so.

Q. Is it the only one? A. That would be one; there might be several.

Q. How would you determine if a man wrote to you from South Dakota, if you did not know, how would you determine that he was fully consecrated? A. I would take the tone of his letter and then I would find out if he were on our subscription list, and then I would consider, taking the two together as the best evidence, and I might make some personal inquiries; if I could find out nothing else, I would assume that he were deeply interested and probably a member. I endeavored to find out the best I could. 2133

Q. Did you take that precaution before you sent him an affidavit? A. Not simply if he sent for an affidavit; no, sir.

Q. "Q. And if the board rules that your members shall not have the benefit of that exemption, your association will abide with that rule and aid the board in carrying out such instructions? A. Yes, sir. We want to be law-abiding citizens." Did you so testify? A. I do not recall the question, but if it is there, I must have said so.

Q. Can't recall that particular question? A. No.

Q. Do you mean to say now that you would not abide by the ruling of the board where they ruled a man was not exempt? A. I would not be disloyal under any circumstances.

Q. Then did you so testify to the board: "Yes, sir. We want to be law-abiding citizens"? A. I would endeavor to carry that out.

2135 Q. Then this letter is right in the face of that—this boy has been accepted, his objection overruled by the board and you write him: "The brethren should refuse to respond to the call, and if necessary, submit to arrest"? A. I do not understand that the board had passed upon that.

Q. Read the letter. A. What is the date of the letter?

By the Court:

Q. That is what the letter says. Read it again. Read the letter and see if you don't say that the board had turned down his application? A. I see your point.

2136 Q. Read it out loud so the rest of us can hear. A. (Reading.) "Pardon me for taking your time. Our son, L. J. Towne, Jr., has been drafted. In talking to Brother Ernest Hooper of Cleveland, he advised writing you and told of a Brother Harold Butman in California, that you wrote an affidavit for him stating he would prefer being shot down than go into the non-combatant or any other part of the army. Kindly advise and send the form of affidavit necessary, if you will. The local board turned the claim for exemption as a member of the I. B. S. A. down and referred him to the district board. We had Brother Van Amburgh's affidavit filed with his claim for exemption or discharge with the local board which was sent to the district board in Canton, Ohio, by

the local board here. Lou has ten days in which to file any additional claims concerning the matter and is firmly standing for the truth as taught by our Lord and Brother Russell. An early reply will be very much appreciated. Answer your brother by His Grace, L. J. Towne."

By Mr. Oeland:

Q. He also advised you that the local board had turned down his application? A. Yea, sir; but this was to be taken up to the appeal board.

Q. You advised him then: "We have no other suggestion that we can make except that Brother Rutherford has suggested that in cases of necessity the brethren refuse to respond to the call, and if necessary, submit to arrest"? A. He said he got ten days there— 2138

Q. Do you say anything? A. I don't in my reply, because the statement I made in the letter—

Q. You say that "We have no other suggestion that we can make, except that Brother Rutherford has suggested that in cases of necessity, the brethren refuse to respond to the call, and if necessary, submit to arrest"? A. I think I said that some time ago.

Q. What did you mean by this when you were asked the question: "Q. And if the board rules that your members shall not have the benefit of that exemption, your association will abide with that rule and aid the board in carrying out such instructions"? What did you mean when they asked if they should reject that? A. The final board of appeals. The local board had turned him down, and it should come to the final board— 2139

By the Court:

Q. Of course he could not be arrested if the board of appeals passed upon it and the suggestion you made is if necessary to submit to arrest? A. I see.

Q. It would not be necessary to submit to arrest unless he would go and refuse to respond to the call after the district board had refused his claim? A. I don't believe I get your point.

By Mr. Oeland:

Q. You knew that he would not be sent to the army until the district board had passed on his appeal, didn't you? Didn't you know that he would not be put in the draft until his appeal was passed on by the district board? A. I assume not.

2141 Q. That he would not be sent? A. I presume he would not be sent; no, sir.

Q. Why did you advise him to be arrested rather than to submit? A. As I stated before to bringing up a case of habeas corpus.

Q. You say you did not sell any of these war affidavits? A. No, sir.

Q. What does this mean: "Credit, war affidavit"? What does that mean in that book—you kept the books, didn't you? A. Yes, sir.

Q. What does that entry mean? A. One brother sent in two dollars, said it would pay to some extent for the trouble—not a sale in any sense of the word.

2142 Q. Then on the 30th of August, 1917, you got two dollars toward defraying the expense of making these affidavits? A. Yes, sir.

Q. Who was that brother—what is that (showing book)? A. F. D. Finch, Roxbury, New York.

Q. Then on the 23rd day of August, 1917, you got two dollars on account of war affidavits? A. Absolutely free donations. Not in any sense of the word a return as a sale.

Q. Why did you put them in the profit and loss book where you credited the account? This is not your donation book, is it—this is your ledger? A. Why, it is away across here.

Q. You did not keep your donations in the ledgers—you kept a separate book for donations? A. This came in as a donation to expense, and I simply credited it over there because it had been an expense for affidavits—we paid a certain amount for these affidavits.

Q. This was put as a credit against that expense? A. Yes, sir; not in any sense of the word a sale.

Q. Was that man a conscientious objector? A. I do not know.

Q. Did you get a letter with it? A. I presume so.

Q. What did he say? A. I don't recall it.

Q. Did you send him any of the affidavits? A. I don't recall whether he asked for any.

Q. Do you recall whether or not you sent him a lot of them? A. No, sir; I don't recall ever sending over six to the secretary of a class. I think that is the highest that I ever sent out.

Q. You don't know how this came about? A. I simply said the letter came in stating he would like to give two dollars to the expense.

Q. Did you send him back any war affidavits? A. I do not know.

Q. How about this next man? A. Credit war affidavits, 75 cents.

Q. Where did that come from? A. Colorado. I think 75 cents. The same would be true there.

Q. Do you know who that man was? A. No, sir; I don't recall personally.

Q. Here is another one came from Mississippi? A. That is the same one you pointed to, two dollars, and then 75 cents.

Q. And then this other man from Mississippi? A. Yes, sir; three of them.

Q. How many war affidavits did you send him? A. I have no idea. Don't think I sent any affidavits.

Q. You say it is your recollection you only printed 1,800? A. About 1,800.

Q. You swore to 1,800 affidavits for the draft purposes, did you? A. I remember signing up about 1,400 and then that was not quite sufficient and I got a couple of hundred more, something like that; I don't recall. I remember paying the notary \$70 at one time and about six or seven dollars another time and about the same amount the third time. Five cents apiece would make that about 1,800.

Q. When was that done? A. Three or four different times. The first was 1,400, making \$70.

2147 Q. How many more after that? A. I think I went up twice more to get an additional lot.

Q. When were the first 1,400? A. I don't recall the dates. It is stated on the affidavits.

Q. When was the last one? A. I do not recall. The same would be true there.

Q. Is this Exhibit 6 for identification, is that one of the affidavits you made? A. Yes, sir.

Q. You say you made approximately 1,800 like that? A. Yes, sir.

Q. That was used in the case of one, Dutcher? A. I think so.

2148 Q. And you testified up there—gave the testimony on his hearing that I have just read? A. I think that is true.

Q. How long had you known Dutcher? A. I had met him at Binghamton on several occasions and he had been associated with the society in the sale of our books for some time, had been an active member of the society.

Q. When did you first meet Dutcher? A. I can't recall.

Q. Don't you know he did not join the association until March, 1917? A. I could not state.

Q. What is your best recollection? A. I don't know when he first joined the association.

Q. And here is a man that you gave an affidavit called a war affidavit? A. Yes, sir.

Q. What did you know about the date that he joined? A. I don't know that I knew anything, because that would be a matter for the local class of which he was a member to decide upon.

Q. What inquiries did you make to find out when he joined? A. I did not make any inquiry because I knew he had been an active worker with the society for some time.

Q. Did you know he joined in March, 1917? A. I did not know that.

Q. Don't you know he was a member of the National Guard for a number of years? A. I did not know that. 2150

Q. Didn't you investigate something about the man? A. No, sir; he had been an active member with our association for some time.

Q. How long? A. I do not know personally.

By the Court:

Q. How do you know he was an active member of the association? A. Because he had been communicating with us and buying books.

Q. That would not make him a member, his buying books? A. It would be a pretty good indication. Our books are not very popular except with those people who are associated with us. 2151

Q. But you sold 150,000? A. They were sold by friends interested in it.

By Mr. Oeland:

Q. My question is how did you know he was fully consecrated, because you must have got some inquiry, and I want to know what you learned? A. I stated as clearly as I know how.

By the Court:

Q. The question is: Did you make any inquiry upon the occasion of furnishing him with the affidavits?

2152

William E. Van Amburgh

A. I do not recall that I did further than my knowledge of his relationship with the society.

By Mr. Oeland:

Q. Your knowledge is such you can't tell the jury when he became a member, you can't tell them the circumstances under which he became a member, and you can't tell whether you knew or not he had been a member of the National Guard of the State of New York for a number of years? A. No. Does that affidavit call for that knowledge all in advance?

2153

Q. No; I don't think so. A. Then would it limit me to sending one to anybody I did not know?

Q. We are trying to find out whether you gave them indiscriminately to anybody who said: "I am a member," or whether you took any precaution to protect the law. A. I have said several times I would give them to anybody who inquired.

Q. If any man that was drafted should ask you for an affidavit you would give him one? A. If he wanted a copy of that—that is a statement of our creed.

Q. And you leave it blank so he can fill it in—it can be used by anybody? A. There is no blank to fill in.

2154

Q. It can be used by anybody who wants to use it? A. If he will state he is a member in good standing—he must prove that he is a member by some other means than by the possession of that affidavit.

Q. But you just said you would give him an affidavit at any time? A. It is not a personal affidavit. It is simply an affidavit on the subject of our views.

Q. Any man who came within the draft age and said he wanted an affidavit, these affidavits made by you of which you got 1,800 copies, you would give it to him? A. If he inquired for it; yes, sir.

Q. Then he could use it as he saw fit? A. It was

up to him whether he would swear that he was a member of the association. He must put up his proof.

Q. In other words, you put no restriction upon the distribution of these affidavits to anyone who wanted them? A. Anyone who inquired for them.

Q. And they were made for that purpose, for general distribution to anyone who might call for them?

A. To anyone who asked for them.

Q. Didn't you think that some abuse might be made of that? A. No.

Q. You were perfectly willing for any man of draft age that came in there and who said: "I want an affidavit" to give it to him? A. Yes, sir. 2156

Q. And yet you were not willing to do anything to obstruct the draft? A. I wouldn't do a thing to obstruct the draft. I don't see how that obstructed the draft. I will be glad if you will enlighten me, and if I have I will be very glad to retract anything that I have done. If there is anything about that in any way obstructive to the draft, I will be glad to know it.

Q. Let us ask you this question: Suppose Mr. Dutcher had never been a member of the association; you wanted people to believe that affidavit, didn't you?

A. That is a statement of the truth.

Q. You wanted it to be believed? A. It is up to them whether they believe it or not. 2157

Q. Didn't you want it to be believed?

By the Court:

Q. Didn't want anyone to think it was untrue? A. Certainly not. I made a truthful statement.

Q. Then you wanted it believed? A. They might believe it or reject it, just as I might take the Methodist doctrine in a book. I don't have to believe it because I buy it.

Q. You wanted the affidavit that you made to be

2158

William E. Van Amburgh

believed? A. I wanted him to believe that I told the truth. He could believe what he believed about the rest of it.

By Mr. Oeland:

Q. Suppose a boy 25 years old that you had never seen before—no restriction there to prevent him using any affidavit in the event of his believing himself a conscientious objector? A. No, sir; if he wanted to use it, it is up to him.

Q. Absolutely? A. Absolutely.

2159 Q. Suppose he goes one step further and does use it and is excused by the board, can't you see any obstruction in that? A. No; no intentional obstruction at all.

Q. Did I understand you to say that you only got \$15 a month; is that absolutely correct? A. Yes, sir.

Q. That is all you get? A. That is all I get from the society; yes, sir.

Q. Don't you other times get some money besides that? A. Not from the society; no, sir.

Q. Here is a check for \$2,500. Isn't that payable to you, endorsed by you and deposited in your personal account? A. Yes, sir.

2160 Q. That is a Watch Tower Bible & Tract Society check? A. Yes, sir.

Q. You got that? A. Not for my own personal use; no, sir.

Q. Did you deposit it to your personal account? A. Very true.

Q. Didn't they pay your house rent in addition to the \$15? A. I am allowed \$10, because I have a room outside. There are a few cases where the society furnish a room. They will either furnish it or you may rent a room outside.

Q. My question was: Don't they pay you room

rent? A. They allow me \$10 a month and several others they do the same.

Q. How did you keep your accounts around there?

A. I don't understand you.

Q. You keep the books? A. I kept the ledger; yes, sir; and the cash books.

Q. And you took in receipts during the year, four or five hundred thousand dollars? A. One year we did; yes, sir.

Q. How is that money paid out? A. By an order from the People's Pulpit Association. These orders are checked up by the auditing department.

2162

Q. Who is the auditing department? A. Mr. Martin is the head of it.

(Recess until 2:15 P. M.)

(After recess, 2:15 P. M.)

WILLIAM E. AMBURGH, recalled for further cross-examination.

By Mr. Oeland:

Q. Mr. Van Amburgh, at the time of Mr. Russell's death he had on hand about \$96,000, in cash, didn't he? A. Mr. Russell?

2163

Q. Yes. A. Personally.

Q. I don't care how; wasn't there about \$96,000 in the safe in cash? A. To the credit of the society, yes.

Q. I didn't ask you that. I asked you was there about \$96,000 in his safe? A. I know it was in his personal safe.

Q. In his safe? A. He had that amount of money in his safe.

Q. Where was that? A. In his office.

2164

William E. Van Amburgh

Q. Well, that was over there in the Bethel or Watch Tower? A. Yes, sir.

Q. Which one was it? A. The little one in the parlor.

Q. Where was the parlor. I get these two buildings confused? A. 124 Columbia Heights.

The Court: How is this material?

Mr. Oeland: I just want to ask one more question. I agree with the Court that it is very far fetched, and I am going just to ask one question about some directors, because we are not investigating that.

2165

Q. Now, after Mr. Russell's death, didn't some of the directors ask for an audit of the books of the concern? A. Yes, sir.

Q. Who were those directors? A. Mr. Ritchie, Mr. Hoskins, and Mr. Wright and another. There were four.

Q. Mitchell? Never mind, you have mentioned three. And also they made some objection to the publication of the seventh volume or what you call "The Finished Mystery"? A. No, sir, not that I know of.

2166

Q. You did not hear of that? A. I did not know of that fact.

The Court: Well, did you hear of it? That is the question.

The Witness: I did not get your question, your Honor.

The Court: Will counsel ask it over?

Q. Did any of those four directors make any objection to the publication of the seventh volume or what we know as the "Finished Mystery"? A. Not before it was published, no, sir.

The Court: Did they afterwards?

The Witness: They did not accept it.

The Court: Then they objected to it?

The Witness: In that way, yea.

Q. And they are the same four that asked for an audit of the books? A. They did prior to that time.

Q. Just before that? A. Some time along in May or June.

Q. Well, now, when did they make the objection to the book? A. After it was published.

Q. Prior to the 17th of July, 1917? A. No, sir.

Q. About that time? A. After that time.

2168

Q. Well, they were all removed, were they not, on the 17th? All these directors that had asked for an audit and made some objection to the book? A. Technically, they were never elected.

Q. Were they acting as directors? A. They had been acting in that way.

Q. And were they removed on or about the 17th day of July, 1917? A. They could not be removed, because they had not been elected.

Q. Had they been acting as directors at that time?

A. They were acting.

The Court: Did you put them out?

2169

The Witness: They could not be put out.

Q. Were they put out? A. Not in the sense of putting out. They could not be put out of something they were not holding.

Q. You said they were acting as directors? A. They had been.

Q. And for how many years? A. One of them for three months, one of them about, well, from four to about seven or eight years.

Q. Well, several of them had been acting for seven or eight years? A. Yea.

Q. Now, my question is whether they were properly there or improperly there; were they put out? A. They were improperly there and could not be put out.

Q. Did you get them out, then? A. They were requested—no, they were out—yes, as far as that is concerned.

Q. When did they go out?

The Court: Well, on your own theory they were never in?

The Witness: No, they were never in.

2171 The Court: But, they had been acting, whether rightfully or wrongfully, and you put them out?

The Witness: Their activities in connection with the society ceased.

Q. Who made them cease? A. Why, the president of the society.

Q. Who was that? A. Mr. J. F. Rutherford.

Q. Did he immediately appoint somebody in their stead? A. He appointed four new directors.

Q. And by your by-laws the directors were to be elected by the members, were they not? A. Yes, sir. Hold on just a moment, now. The directors were to be elected by the shareholders of the society annually.

2172 Q. And these men had been holding over for years, without any actual election? A. They had not been elected by shareholders.

Q. They had originally been elected by shareholders? A. Only one.

Q. Who was he? A. Mr. A. I. Ritchie.

Q. Did you put him out? A. Yes, sir.

Q. And about the 17th of July? A. Yes, in the sense I use the word "out," in the same sense.

Q. Let us get the word used. Mr. Rutherford told them they were no longer directors and appointed somebody else? A. That is the truth.

Q. That is all I want. A. I am trying to give it to you.

The Court: Are they the only ones that objected to the book called "The Finished Mystery"?

The Witness: You mean only ones of the directors?

The Court: Yea.

The Witness: As far as I know.

Q. What is this book I hand you? A. It is my record of the minutes of the meetings of the directors of the Watch Tower Bible & Tract Society.

Q. Correctly kept? A. To the best of my knowledge and belief, yes. 2174

Q. Turn to page 140. A. Yes.

Q. Is that a correct copy of the minutes; does it correctly report what occurred at that meeting? A. I was looking to see if it had my signature.

Q. Yes, well, run through it. A. Yes, sir, that is.

Q. That is a correct report of what occurred at the meeting? A. To the best of my ability, yes, sir.

Q. And the minutes are kept by you as secretary of the association? A. Yes, sir.

Q. And was it just prior to that time that Mr. Rutherford had removed or estopped, I do not care what words you used, these other directors and put in four new directors? A. It was about that time. This was the first meeting. 2175

Q. They notified their acceptance in writings, and it is spread in the minutes on that occasion? A. Yes, sir.

Q. And that is the date that Mr. Robison and Mr. Fisher came up when the book was to be started for distribution, "The Finished Mystery"? A. I do not recall Mr. Robison. You are referring to Mr. Woodworth?

Q. Yea. A. Mr. Woodworth and Mr. Fisher were one of the newly appointed, and Mr. Woodworth was

there by invitation, I believe, at least I heard him so state.

Q. And a written report, which you included in the minutes was made by Mr. Rutherford on that occasion? A. Yes, sir.

Q. And you copied that in the minutes? A. Yes, sir.

Q. And in that it says: "It seemed good to the Lord to have the seventh volume prepared, and two faithful brethren, Brothers Woodworth and Fisher, did this work very faithfully, others assisting in the mechanical part of it. I have read considerable of the manuscript and printer's proofs while traveling on the trains. When time came for publishing this work we were in the midst of much opposition, and knowing that to consult the opposers would hinder the publishing of the volume, I took counsel with Brothers Van Amburgh, MacMillan, Martin and Hudgings of the office force." Was that report read, read and approved by you? A. Yes, sir.

Q. Well, who were the men that were opposing? A. They were opposing the management, not opposing the publication of the book.

Q. "When the time came for publishing this work?"

2178 The Court: As soon as they found out they objected, you say?

The Witness: Yes, sir. Mr. Wright, Mr. Ritchie, Mr. Hirsh and Mr. Hoskins.

Q. They were removed? A. They were replaced.

Q. Did he consult with you about the work with reference to the book? A. In the method I already stated.

Q. And then you signed and got up and printed form 31, that is a correct facsimile of your handwriting, isn't it? A. Yes, sir, that is a facsimile of my handwriting.

Q. Also a facsimile of MacMillan's? A. I think so, yes.

Q. Of Fisher? A. I think so.

Q. And in that you approve of the written report made by Mr. Rutherford? A. Yes, sir.

Q. And this was mimeographed, the original was mimeographed and sent broadcast around? A. Quite a good many sent out, yes, sir.

Q. Well, now, go on back to the management of the office. What part of the work did you do there? A. I was simply cashier and treasurer.

Q. Well, at the time that you made these affidavits, which were referred to this morning, the 1,800, you knew then that the seventh volume was being widely circulated? A. Yes, sir. 2180

Q. You knew you were getting many inquiries about the Draft Act? A. Comparatively many, yes, sir.

Q. And it was after that time that you prepared these affidavits from time to time? A. In answer to those inquiries, yes, sir.

Q. Well, now, there were several exhibits shown to you, for instance, the "Watch Tower" with the Cuminetti letter in it of March 1st, 1917. You knew that they kept that on sale there after an edition was out, they would keep it on sale and distribute it long after the sale was out? A. Yes, sir. 2181

Q. And you knew after July 17, 1917 that that edition of March 1, 1917 was being sold at the "Watch Tower"? A. It was for sale.

Q. And you say you never read the Cuminetti letter when it was published in it? A. I say I read it when it was first published in 1915.

Q. You never read it afterwards? A. Not that I recall.

Q. Who was responsible for the publication of the "Bible Students' Monthly"? A. The auditing department.

Page 728 in the original transcript is blank.

Page 729 in the original transcript is blank.

Q. Weren't many millions of these distributed? A. Yes, of some particular issues.

Q. Was there any reason why no date was put on that? Any reason that you know of? A. Not that I know of.

Q. I am going back with my question, with that refreshing of your recollection by me, reading that, do you say that you ever read or did not read that portion that I read to you? A. I do not recall ever reading it in the "Bible Students' Monthly." I have a faint recollection of seeing it in the "Watch Tower," but I would not be positive in regard to that.

Q. Is this same thing published in the "Watch Tower"? A. Some time ago it seems to me it was, but I am not positive of that.

Q. What issue would that be in? A. I could not tell you. It must have been before Pastor Russell's death.

Q. Does that language there express your ideas? A. No, sir, it would not.

Q. If it did not express your ideas don't you think you would have noticed it and remembered it? A. I certainly should, but if I am reading so much how could I remember that?

Q. You were on the editorial committee of this organization? A. Not while Pastor Russell was present.

Q. You were on the editorial committee after his death? A. Yes.

Q. And still on it? A. Yes.

Q. What duties did you perform on the editorial committee? A. Usually gone over the written doctrinal. I did not read all letters put into it. That was left to another party.

Q. Who was that? A. R. H. Hirsh.

Q. Mr. Hirsh got put out, didn't he? A. Yes, sir.

Q. Well, after he left, who attended to it? A. It was then in the hands of Mr. Rutherford himself,

Mr. Page, I have forgotten exactly how they came in, but Mr. Robison came in later.

Q. My question is while you were on the editorial committee were you allowing things to be published by the Watch Tower Bible & Tract Society and paying for them without paying any attention to what was being published? A. We were supposed to read over the doctrinal articles, Sunday School lessons were largely reprints, matter that Pastor Russell—reprints from Pastor Russell, and letters went in the back.

Q. As a member of the editorial committee, didn't you pay any attention to the reprints of this "Bible Students' Monthly" at all? A. No, sir. 2192

Q. You did not know what was being reprinted or what was in the printer? A. Not up until the issue called "The World of Fire," and, that was a reprint of Pastor Russell's sermon.

Q. You did not know about that? A. I read that over because it was a reprint of one of his sermons, I believe.

Q. When was that reprinted? A. If I remember correctly, about January, 1917.

Q. That was Volume 9, No. 1? A. I believe it was, yes, sir.

Q. And didn't you hear Mr. Adams say that several hundred thousand copies or one hundred thousand copies were reprinted in October and November, 1917? A. I heard him say so. 2193

Q. Did you know anything about that? A. No, sir.

Q. Wouldn't a big issue like that be drawn to your attention? A. No, sir. Not necessarily.

Q. So you did not know about that? A. That would come from the printing department.

Q. Well, how did you divide up your work there? A. I was cashier and would pay the orders.

Q. Who gave directions as to the division of the work? A. Mr. Martin.

Q. What did Mr. MacMillan have to do with it? A. Well, he was assistant to the president. He was in the office there little. Usually on the road, and giving general directions in the work, but he interfered not all with the management of the office. That was under Mr. Martin.

Q. And you knew Mr. DeCecca was there attending to the Italian Department? A. I saw him there.

2195 Q. You were a member of the Board of Directors? A. Yea, sir.

Q. And didn't you give any attention to that? A. It was not my business.

Q. When were you elected to the membership of the Board of Directors? A. In March, 1903.

Q. And you held over just like these other men? A. No, sir, I have been re-elected every year.

Q. Where? A. At the annual meetings.

Q. Didn't you ever vote for directors? A. Certainly.

Q. And didn't you vote for these other men as directors? A. No, sir, because it never came up for voting.

2196 Q. How would it be singled out that you were elected? A. I was elected as an officer in this society.

Q. You understand the difference between being an officer and a director in the society? A. Yea, sir.

Q. When were you elected director of the organization? A. In March, 1903 at a meeting of the Board of Directors.

Q. No, when were you elected a director? A. It could not be done at the election.

Q. Yes, that is what you said before as to these other men? A. The next election was in 1904.

Q. What kind of an election? A. An election by shareholders.

Q. By shareholders? A. Yea, sir.

Q. And weren't these same men elected at that time? .

A. No, sir.

Q. Why? A. Because they were not up there.

Q. How did they come to be directors? A. It is in the list there, I can inform you by referring to the minutes there.

Q. When were you elected, after 1904? A. 1905.

Q. Were there any other directors elected at that time? A. Pastor Russell always, as president, and whoever was to be elected as vice president.

Q. You are talking about officers? A. Yes, I understand when elected as officers they are elected as directors. 2198

Q. How did you hold your membership as a director? A. By election.

Q. Just because you were appointed an officer by the Board of Directors? A. Yes, sir, but after that always by election.

Q. When were you ever elected a director of this corporation by the stockholders? A. If you mean being elected a director, not being elected an officer, then there was never a special election to differentiate between that election of officers and directors.

Q. And then you were never elected a director, but acted as one like these other men? A. I am under the impression that being elected to an office is being elected a director. 2199

The Court: That is your construction of it. The question is were you voted for and elected a director?

The Witness: I understand it to be connected matter as being elected a director first and then being elected as an officer. I do not recall any special previous election of directors, and then of officers following that.

The Court: Then you were never voted for and elected a director but once?

The Witness: As director, but always elected officer by the shareholders.

The Court: Officers are not elected, they are appointed, aren't they?

The Witness: No, sir, they are elected by the shareholders, the same shareholders that elect officers, therefore, election to officership by shareholders of themselves would, of itself constitute an election to a directorship.

2201

Q. Well, take Mr. Hirsh, for instance. How did he become a director; he is one of the men that was removed? A. That is this, there is a provision in the by-laws or constitution, I have forgotten which, by which if there is a vacancy, this vacancy may be filled by the remaining members of the board, and they should hold over until the next annual election.

Q. Mr. Hirsh was elected that way? A. Yes, some time in March, 1917.

Q. How was Mr. Ritchie elected? A. Mr. Ritchie was elected in, I believe, 1911 as a vice president. He never was elected since being elected first. I may be mistaken about, I would have to refresh my memory, but he was elected in January, 1911.

2202

Q. As director? A. I am not positive about that. I would have to refresh my memory.

Q. He was removed and you were not? A. Yes, sir.

Q. Well, now, you said you knew that Mr. DeCecca was there; you knew he had charge of the Italian Department, didn't you? A. Yes.

Q. And what did you understand that to mean, that he had charge of it? A. Why, we received correspondence in various languages, and usually who could handle the language properly would receive these letters and translate them, and confer with the management as to their answers.

Q. Well, who would he confer with? A. Mr. Martin.

Q. And Mr. Rutherford? A. Not necessarily.

Q. Well, would he unnecessarily? A. I presume if he wished to he would take it up with Mr. Martin, and Mr. Martin take it up with Mr. Rutherford.

Q. I hand you Exhibit 30 for identification, was that printed by your society? A. Not to my knowledge. I never saw it until I saw it here.

Q. Didn't you ever see it around there? A. No, sir.

Q. Would you know about it if it was printed? A. 2204
Not necessarily at all.

Q. Would you pay for any Italian printing that was done? A. I think we did. We had some Italian "Bible Students' Monthly," if I am not mistaken.

Q. You say that was printed by the Watch Tower Bible & Tract Society? A. I would not say it was not, but I never saw it and never heard of it, because I did not have charge of the printing department.

Q. You paid for the printing department? A. On orders from the auditing department, yes, sir.

Q. Did Mr. DeCecca get orders, or anybody pay Mr. Martin? A. Not that I know of, he did not get any orders from me. 2205

Q. Were you present when Mr. Rutherford consulted with Mr. Martin about the publication of the seventh volume? A. No, sir.

Q. And in the minutes where he refers to consulting with Martin, Robison and MacMillan it was not a joint consultation? A. No, sir. Simply consultation between Mr. Rutherford and myself at the time and I spoke of it.

Q. You were not present at a joint conference? A. No, sir, never.

Q. And did you pay Mr. Fischer and Mr. Woodworth for this work? A. No, sir, not in the sense of paying at all.

Q. Well, didn't you—what would this entry on your books mean? A. If I had my cash book I would show you this. In order to balance our books with any cash paid out, there would have to be a debit in and a credit out. This was paid out as five hundred.

Q. To both of them? A. Yes, sir.

Q. On what date? A. On October 26, 1917, and then it would be credited as a donation to the tract fund, in order that that might get a corresponding voting share in the society. There was no money passed either way.

2207 Q. Don't you keep donations in a separate book from this? A. Yes, sir, but the cash must balance. Have you the last page of the month? Would you let me see the last page of the month. The correct thing would be found in that item. Here is a credit in of \$79,163, and that one \$1,000 here charged out would be found credited in the same items there.

Q. Credited in \$79,000? A. In the \$44,000 as a tract fund donation. The \$79,000 include all these other items. \$44,000 of that tract fund donations.

Q. You mean you credit yourself with \$79,000, you did not get any cash? A. So far as this was concerned.

2208 Q. Leaving that for the minute. You mean there when you credit yourself with \$79,000, you did not get any cash? A. No, sir, I just have \$1,000, they charged out and charged back.

Q. What did that mean? A. It meant various sales and \$44,000 donations.

Q. What would come out when you get that credit for the \$500? A. Simply fifty voting shares at the annual election.

Q. Wouldn't you charge that up some way or other on your books? A. I charge it up as \$500 out and credit it in. It is simply a book account and no cash under any consideration.

Q. Would you charge over fifty shares of voting stock? A. Yes, sir, they have a credit of fifty more shares each on our card system.

Q. Wouldn't charge the stock book? A. Yes, sir, that is what I say, you credit it.

Q. Another thing I do not understand: How is this \$17,000 here, where Fisher got credit in the People's Pulpit Association in the \$1,000 stock of the People's Pulpit Association; how did you work this on your book? A. The Watch Tower Bible & Tract Society pays all the accounts of the People's Pulpit Association. The People's Pulpit Association being the vending society, they pay all bills, but the cash is paid out by the "Watch Tower." This brings the People's Pulpit Association in debt to the Bible Tract Society of several hundred thousand dollars, and as the membership in the People's Pulpit Association is considered, or a membership in the People's Pulpit Association would be a \$1,000, the "Watch Tower" credit the People's Pulpit Association \$1,000 each for those members here mentioned. It was no transfer of cash, but simply a credit on account. This \$1,000 membership fee is of no value whatever to the member. It is absolutely worthless, except it makes him a member and then he has one vote in the association of the People's Pulpit Association.

Q. What does he get for the \$1,000? A. There was no thousand dollars transferred but as a credit to the People's Pulpit Association, they owe that to the Watch Tower Bible & Tract Society, several hundred thousand dollars.

Q. What for? A. Because all the money goes into the "Watch Tower" and paid out by the People's Pulpit Association.

Q. Who is secretary and treasurer of the People's Pulpit? A. I am treasurer at present.

Q. Who is secretary? A. Mr. Hudgins.

Q. Have they a bank account? A. No, sir, not a running bank account.

Q. You do not put that \$17,000 on the cash item at all, do you? A. It is charged in here as \$17,000 and credited out, which is simply another book transfer.

Q. Where is it charged in? A. It is credited to the People's Pulpit Association, \$17,000. No. It would not be charged on the cash account, simply on the ledger account. It is not on the cash, it is put on the ledger account.

2213 Q. And that would make the \$17,000 difference in your book? A. Not on the cash because no cash is transferred. The People's Pulpit Association did not pay us \$17,000 in cash.

Q. But just the same as paid it, you get that credit? A. We simply get that credit on the ledger for \$17,000, that reduced their debit to us that amount. It is so credited here in the book.

Q. Well, where else did you make an entry on that? A. I do not know of any other entry in here. It is on this page of the ledger account.

Q. That was the same way you carried Fisher and Woodworth? A. No, that was carried in as cash because that was brought in as a donation.

2214 Q. In other words, you credited him with a thousand and charged a thousand as a donation? A. I credited him with a thousand and charged a thousand out. No cash transfer.

Q. You charge \$17,000, don't you? A. I credit it on the ledger account.

Q. Don't you charge \$17,000 out of the Watch Tower funds? A. No, because there was no cash transferred.

Q. You have got to have a halancing entry or you would have your book \$34,000 wrong, wouldn't you? A. No. Here is an amount given here credited by these, thousand each for seventeen parties.

Q. Well, what entry did you make on the Watch Tower books? A. The Watch Tower. This is the Watch Tower book.

Q. Well, that is the \$17,000 out? A. Not on the cash book but simply over here.

Q. Well, I know, but no matter where it is you have got to have a counterbalancing entry somewhere? A. I do not see it in this case.

RE-DIRECT EXAMINATION by Mr. Sparks:

Q. Mr. Oeland tried to make it appear in addition to your \$15 a month that you get for your personal benefit, on August 8, 1917, \$2,500—Mr. Van Amburgh, I omitted to ask you what you did with that, will you kindly state? A. That was given in return for a personal check of like amount which was charged to the society.

2216

Q. That is, that you had expended on behalf of the society? A. Yes, sir.

Q. And that was the expense of the society that you had paid? A. Yes, sir.

Q. And in payment of the expenditure by you? A. Yes, sir.

Q. Were any of these four members whose places were filled by the president re-elected at the next annual meeting of the association? A. No, sir.

2217

Q. They had created some discord in the society and out of harmony—and they were out of harmony with the work, is that correct? A. Yes, sir.

Q. And under some legal advice an opinion was rendered that they were not legally holding their office? A. Yes, sir.

Q. And new members were elected in their place? A. Appointed in their place.

Q. And at the next annual meeting that action of the president was ratified and approved? A. By the entire electorate.

By Mr. Fuller:

Q. This opposition that is referred to in the minutes, you said that was opposition to the management of the association? A. Yes, sir.

Q. These \$1,000 payments Mr. Oeland has been referring to as membership of the People's Pulpit Association, were they originally intended to be donations to the work? A. No, sir.

2219

Q. What was the original purpose? A. Simply to give them credit, so they could come in as members of the association. If they had paid \$1,000 actually they would have been credited in, but simply credit from the society on their behalf.

Q. Now, isn't it a fact that most of the members of the People's Pulpit Association have this \$1,000 credited in the same way, that is the case with Mr. Woodworth and Mr. Fisher? A. With all except the original charter members.

Q. And the Watch Tower Bible & Tract Society finances the work that is carried on by the People's Pulpit Association, isn't that so? A. Yes, sir.

2220

Q. And does the Watch Tower Bible & Tract Society pay for the work which is contracted for and performed by the People's Pulpit Association, work on payments made by the tract and by the Watch Tower? A. Yes, sir.

Q. For the work, who have done the work? A. Yes, sir.

Q. For printing and work of that character? A. Yes, sir.

Q. And hence when the Watch Tower was leaving this provision for \$1,000 which was a condition to membership of the People's Pulpit Association, it was merely transferring \$1,000 from one pocket to another? A. Practically.

Q. Each year you compile from the estimates and

contributions which you received for the publication of that statement that you annually made in the "Watch Tower," compile sort of a budget for the following year and made estimates for expenses for the following year? A. Usually.

Q. And during the course of the year, any given year, the work that was carried on, the religious work that was carried on by this associative organizations was paid for out of contributions made to the work, is that so? A. Yes, sir.

Q. And those contributions were made to the "Watch Tower"? A. Yes, sir.

2222

Q. And all of that money was expended in the carrying on of this religious work? A. All of it.

Q. So at the end of the year all you had left was the working balance to begin next year? A. Yes, sir.

Q. And that has been the continuous financial situation during your entire connection with the work, hasn't it? A. Yes, sir.

RE-CROSS EXAMINATION by Mr. Buchner:

Q. Mr. Van Amburgh, I understood you to say that this check for \$2,500 was to repay a personal check of yours? A. A personal check which I have given to the work.

2223

Q. You had given to the work in general? A. No, sir.

Q. Given it for what purpose? A. Mr. Martin was going away. I did not know where. Mr. Rutherford asked for a check or wanted to know if I could have him, let him have some money, because his expenses would be quite heavy. And I said I could let him have a check for \$2,500. I let him have the check, and later I understood it was paid for the postage to send out the several thousand copies of Volume 7, to the subscribers of the "Watch Tower."

Q. How much later? A. It must have been in the neighborhood of a month later.

Q. A month after you gave him the check or after you got this check back? A. I think the date of the check I got was about July 12th.

Q. Well, did you give him your own personal check? A. No, sir, I had the privilege of drawing on a personal account.

Q. But it was the funds of the society that you gave him a check? A. No, a personal trust account that I had of my own.

2225 Q. In trust for whom? A. A personal party that had entrusted some money to me. I could give you the name if you wish.

Q. Yes, who is it? A. Mr. A. N. Pierson, who has a trust fund which he left in my charge and to use as I thought best.

Q. That is in your own personal name, that trust fund? A. Mr. Pierson—

Q. Isn't that in your own personal name? A. Part of it and part not.

Q. You deposited this \$2,500 in the National Nassau Bank for the account of W. E. Van Amburgh? A. Yes.

2226 Q. And that is your personal name? A. Yes.

Q. No trustee or anything of that sort? A. No, sir, but I was the trustee.

Q. Why didn't you give him a check on the original funds of the society? A. Because, as I recall the matter, I could not get out an office check. No, I beg your pardon. Please cross that out. I do not recall particularly, but I understood that Mr. Martin was going to Hammond in regard to the seventh volume, and it was not desired to draw any checks on the society in regard to the seventh volume until after the society may have accepted the work. Therefore, I

drew on this account in order that the society might not have anything to do with it until it had adopted it.

Q. And when did you draw that check? A. July 12th, if I remember correctly.

Q. You knew that check was to be used for the seventh volume? A. I expected it would be.

Q. And it was to pay Mr. Martin's expenses on his trip to Hammond, is that right? A. No, I understood he would need some expenses, and whatever he needed I learned afterwards, it was for the seventh volume.

Q. For sending it out? A. Yea.

Q. When did you learn that? A. Some time later. 2228

Q. How much later? A. A couple of weeks.

Q. A couple of weeks later than the time that you got this check back? A. A couple of weeks later than that. I think the original check was July 12th.

Q. When did you find out that this money was to be used to send out this seventh volume? A. When I gave the check, I understood that part of it would go to that account.

Q. You knew it then? A. I expected it.

Q. You were asked that before and you said, no, you did not find it out until several weeks? A. No, sir, I had reference to what it was used for.

Q. Did you know that some of it was to Mr. Martin's expenses on his trip to Hammond? A. No; I did not know that. 2229

Q. So you took this money, that is, the trust fund for Mr. Pierson, and gave it to Mr. Martin to use for whatever he saw fit, is that it? A. Yes, sir; that is it exactly.

Q. Did you cash the check? A. No, sir; Mr. Martin cashed the check.

Q. Where and when? A. Through Mr. W. C. Conkey of Hammond, Indiana.

Q. Cashed it through them? A. Yea, sir.

Q. You could have given Conkey & Company a

check and could have then cashed it just as easily? A. Yes, sir.

Q. Why, then, give Mr. Martin this check? A. Because he was going to Hammond.

Q. How much of that paid his expenses? A. I do not know that a cent of it went for expenses. It came through the bank with Mr. Conkey's name on the back of it, so I suppose he got all of it.

Q. For what? A. Mr. Martin tells me he got it for postage.

Q. All for postage? A. Yes.

2231 Q. And that was the first batch of the seventh volume that was sent out that you paid for with your personal check? A. Yes, sir; in that way.

2232 Q. You say someone would object; did Mr. Martin? A. Because the society was not yet—give me just a minute now to get this straight. That there might be some objection or fearing there may be some objection to the seventh volume, it was brought out without the society's check or endorsement at first as a matter of—well, now, I want to state that exactly as it is. I do not want to make any misstatement on that. The order given for the seventh volume was some time in June. The opposition to the management was already rife, and as has been reported in those minutes of the meeting that there would be opposition, Mr. Rutherford had told me that he could get the book printed much cheaper, if they could get the order in quickly, and fearing if it were passed around through so many hands it might be greatly delayed, it was thought well not to present it to the other members, but as Mr. Rutherford is the president and has entire charge of that matter, and was fully authorized to act in the case, he acted under his direction personally, and, therefore, it was not brought in as a society matter until later.

Q. You say Mr. Rutherford had full authority to get this out as a society affair? A. Yes, sir.

Q. And he wrote the preface? A. Yes.

Q. And he signed the preface for the Watch Tower Bible & Tract Society? A. Yes.

Q. You hadn't any compunctions of entering this book in the name of the People's Pulpit Association? A. Absolutely not.

Q. All those things connected the organization and you put on the front of it also, the International Bible Students' Tract Society? A. The International Bible Students' Association.

2234

Q. You have given this on the frontpiece? A. Yes, sir.

Q. And yet you thought you could not use the money of the Watch Tower Bible & Tract Society? A. We did not care to at that time.

Q. You did not need it, really, if what Mr. Rutherford said was true, a brother had placed in his hands to get this book out? A. Not necessarily.

Q. Who was the brother, you? A. No.

Q. Then, he had other money? A. It came from another brother, not me.

Q. Why did you have to give him \$2,500 if he had money from another brother to get this book out? A. Because it was a temporary loan.

2235

Q. From another brother? A. No, sir.

Q. From you? A. Yes.

Q. You knew the Watch Tower Bible & Tract Society would have to pay it back if that was accepted, and if they did not? A. I was privileged to use it as I saw fit. It was in my hands to use as I saw fit.

Q. The money belonged to Mr. Pierson? A. It was in trust for him with power to use as I saw fit. He simply left it to me, absolutely.

Q. Was the reason that you gave your own personal check instead of a check of the society, to keep away

2236

William E. Van Amburgh

from these four directors the knowledge that the seventh volume was being prepared and all ready to be launched? A. I do not recall, but it may have been.

Q. That was it, wasn't it? A. I do not recall as I said.

Q. Now, wasn't that your motive? A. Well, if it was, I am not ashamed of it.

The Court: Tell us just how it is?

The Witness: I also think it was—

2237

The Court: Have you any doubt about it?

The Witness: I will do the very best I can.

The Court: Your memory would not fail you on that?

The Witness: We were all so busy at that time and rushing so, I would have to refresh my memory. I stated there in the minutes of the Watch Tower Bible & Tract Society there was opposition to the management, and fearing this opposition would be extended to any further work that the management might undertake, I thought it well to co-operate with Mr. Rutherford to this extent as he requested, and I issued this check of \$2,500 to be used by Mr. Martin as he should see fit when he went to Hammind.

2238

The Court: Now, that is not responsive in the least to the question. The question was that you did not do that in order to conceal, to keep the knowledge of the seventh volume, the fact that the seventh volume was going to be forthcoming, from the four directors that were put out. That is the question.

The Witness: I do not recall what time that was, then.

The Court: That is not what they say. Was that the motive and the purpose?

The Witness: I will admit that as the motive, although I do not recall it.

The Court: Well, now, that is not responsive. The question is what the fact was. What was the truth of the matter?

The Witness: I presume that was the truth of it.

The Court: Why do you say, Mr. Van Amburgh, that you presume? Now, that was a matter that a person with your memory would not fail to remember. Your memory would not be likely to get mixed up like that. Now, counsel requires a correct answer. There is quite a bit of detail in that transaction, and to go a roundabout course, there must be some purpose regarding that, because I cannot understand from you the society that you are treasurer of did not have ample money, so you could have used \$2,500 at any time. Now, that is quite an extraordinary transaction, and it took quite an extraordinary course, and when counsel asks you the reason, you ought not to qualify it with "I presume" or "I will admit" or something of that kind. He is entitled to your recollection. 2240

The Witness: Then, I will say yes.

Q. That was your intent? A. I will say that was my intent.

Q. And as soon as you got these four directors out on the 17th of July, you intended to have this money repaid to you, and you did? A. I do not know about the intention. It was repaid. 2241

Q. But as soon as the three that were left and the four that were appointed on the 17th of July had accepted the book, you expected to get your money? A. I expected it; yes.

Q. And you did get it back? A. Yes, sir.

Q. And you charged it up to volume seven account? A. Yes, sir, when that account was opened.

By Mr. Fuller:

Q. Did you deposit at the time into the same ac-

count from which you had withdrawn it? A. You mean this \$2,500 check?

Q. Yes. A. I would have to explain. Mr. Pierson gave me a check for \$7,000, and left it on my name with several signed checks that I could use at any time I pleased. I frequently used some of these signed checks and would draw his account to my own account and then draw my own personal checks for whatever I thought best. So, in the return of this \$2,500 instead of putting it back in Mr. Pierson's account, which I accounted for just as much in his name and mine.

2243

Q. And as you had done before? A. Yes, sir.

Q. And as you were authorized by Mr. Pierson? A. Yes; it made no difference so far as Mr. Pierson and I are concerned whether account stayed in his name or mine.

By Mr. Sparks:

Q. Mr. Pierson instructed you to use these funds for the benefit of the society? A. Any way I thought was best.

Q. Wasn't it the understanding that you were to use the funds for the benefit of the society? A. Yes, sir.

2244

Q. That was the real understanding, you were not to use it for your personal expenses or anything of that kind? A. He told me if I wished to draw personally for myself I might, but I never did.

Q. Then, it was a gift to you? A. No; it was not a gift. I accept your correction. It was for the general work of the society and not a personal matter.

Q. And Mr. Pierson knew of the use you were putting his money? A. Yes, sir, absolutely.

Q. And Mr. Pierson has been at this trial and knew all about that transaction? A. Yes; he did.

The Court: The Court is not clear as to whether this person's money is the money referred to by the president as having been placed at their disposal.

Mr. Buchner: I understood not.

By Mr. Buchner:

Q. I understood, Mr. Van Amburgh, that this \$2,500 check that you speak of was not the money referred to by Mr. Rutherford as being placed in his hands by a brother for the publication of this seventh volume, is that right? A. That is right. It was not. 2246

Q. Do you know the name of the brother that gave Mr. Rutherford the money? A. I think his name is Butterfield.

Q. Did Mr. Rutherford ever tell you that was the name? A. I think so.

Q. Was that money paid back? A. Not to Butterfield.

The Court: What is his first name and where does he come from?

The Witness: I do not recall. He is out in Colorado somewhere.

Q. How much was it? A. \$5,000. 2247

Mr. Sparks: Do you want to take my information on that? I will be very glad to give it to you.

Q. You don't know whether that was paid back or not? A. Not through me.

Q. Not out of the Watch Tower funds? A. No, sir.

FRED H. ROBISON, one of the defendants, called as a witness in behalf of the defendants, was duly sworn and testified as follows:

Direct-examination by Mr. Sparks:

Q. Mr. Robison, you are one of the defendants in this action? A. Yes, sir.

Q. And where were you born? A. Near Greenwood, Indiana.

Q. And were you raised in that section? A. Yes; I lived there until I was twenty.

2249 Q. And what schooling did you have? A. I went through the common and high schools of Greenwood and spent two years in Franklin College and about two-thirds of a year in Butler College.

Q. You worked your way through those various schools and paid for your own education by your own labors? A. Yes, sir.

2250 Q. What work were you doing during that period at this time? A. During the summer season when I was in the common and high schools I worked in the canning factory, which was in our vicinity, and I started working there when I was seven years old. I worked there twelve seasons. That is, all the time I was there except when I was in school. When I was in college, between the terms I worked in a section gang on a railroad.

Q. When did you become interested in religious work? A. In 1902 I first became interested in religious work as the result of reading the New Testament, and I made a full consecration to the Lord.

Q. What year? A. 1902.

Q. What religious work did you pursue? A. I engaged in the Young People's Society of the Christian Endeavor work, usually called the Christian Endeavor in connection with the Presbyterian Church, although I was not a member of that church, and I attended for about six or seven years.

Q. When did you become interested in Pastor Russell's doctrines? A. In the summer of 1904 I encountered his first three volumes.

Q. What were you doing then in Canada? A. I was land guard for the Canadian Immigration Service in Port Arthur. That was my headquarters.

Q. And you pursued and studied his work there? A. Yes, sir; I read the volumes the following year, 1904. I returned to the United States and pursued the studies until 1906. Early in the year I went to Cleveland, Ohio, and there first came in contact with others who believed in his work and identified myself with the church in Cleveland. 2252

Q. What was your employment in Cleveland? A. I was foreman in the color room of the Morgan Lithograph Company, Commercial Artists.

Q. You joined the class there? A. Yes, sir; in August of 1906, I went to and was immersed and became a member of the Cleveland Church proper.

Q. Did you do any work for the society? A. I did what we call volunteer work mornings or evenings and Sundays. That is, free distribution of literature on Bible topics.

Q. And did you get paid for that? A. I beg your pardon? 2253

Q. Did you get paid for that? A. No; this was all voluntary service, no financial remuneration whatever.

Q. When did you finally commence to work for the society and give your entire time to it? A. In August, 1907, I entered the colporteur work in Philadelphia. That is the term we used in connection with the distribution work of the volume which Pastor Russell had written. At that time there were only six and these volumes are received from the society and the colporteurs canvass for them and sell them.

Q. They buy them at a certain amount, and what is

that amount? A. I do not know what it is now. At that time I handled just the first three volumes and paid sixteen cents a volume plus the freight or express rate, however they might be shipped to me.

Q. And sell them for how much? A. Thirty-five cents if for a single volume, or the first three volumes for 98 cents together.

Q. And was the difference between the price you got them from the society at and what you sold them sufficient to keep you alive? A. Just about.

2255 Q. And how long did you continue in that work? A. Until January, 1908, at which time I received an invitation. I was working in Cincinnati at that time—at which time I received an invitation to come to the headquarters in Allegheny.

Q. Did you accept that invitation? A. Yes, sir, and went to Allegheny and engaged in the office work there as a stenographer and an assistant in handling the mail and such work as that.

Q. And what pay did you receive for doing that work? A. I received an expense allowance of ten dollars a month.

Q. And anything aside from that for your services? A. No.

2256 Q. And you continued in that work for how long? A. I continued in that work until June, 1915. In the meantime the headquarters of the society were transferred to Brooklyn. After we came to Brooklyn, I had charge of what we called the Foreign Department, receiving foreign mail and overseeing more or less the translation of our literature into foreign languages, the publishing of these and work necessarily connected with it.

Q. And you left the Brooklyn headquarters of what? A. About the middle of June, 1915.

Q. And you went where from here? A. I worked a few weeks in New York as a commercial artist

with the United States Lithograph Company, after which time, in September of 1915, I went to Dayton, Ohio, and became superintendent of the Pyramid Film Company, an advertising film concern and manufacturing commercial films.

Q. And you were in that business how long? A. Until August, 1916. Then I moved to Cleveland, Ohio, and became superintendent of the Art Film Studios, a concern engaged in a similar business, and remained with that firm until June, 1917, at which time I became publicity manager for the Wellmann-Seaver-Morgan & Company, engineers and steel plant 2258
equippers, and remained there until December 19, 1917, arriving in Brooklyn December 20, 1917.

Q. And then you went to the Bethel Home here?
A. Yes, sir.

Q. And have been here ever since? A. Yes, sir.

Q. So, as a matter of fact, from June, 1915, down to the 19th day of December or the 20th day of December, 1917, you were in no way connected with the work of the International Bible Students' Association, except as a lay preacher? A. That is correct.

Q. And during that period of time did you know anything about or have any knowledge that "The Finished Mystery" was in the process of writing or publication or circulation? A. None whatever. 2259

Q. And the knowledge that you had that "The Finished Mystery" was in existence was when? A. The last week in July, I believe it was, 1917, when I received a copy of "The Finished Mystery" through the mail. It came to my address in Cleveland, Ohio.

Q. Did you enter into any conspiracy; you were not here personally to see Mr. Rutherford, Mr. Van Amburgh or the other defendants, personally? A. No, sir.

Q. And did you see any of them during the period

of time from the 6th of April, 1917, down to the 20th day of December, 1917? A. Yes, sir; I saw Mr. Rutherford in Cincinnati, Ohio, on Sunday, October 4, I believe it is, for a few minutes. A convention was being held there and I was there and saw him.

Q. But on that occasion he did not mention or state to you that "The Finished Mystery" was in process of writing or circulation? A. No; it was published at that time, this was 1917.

Q. But prior to that time had he spoken to you about it? A. No; I had not seen him.

2261 Q. You had not seen him? A. No.

Q. Had any of the other defendants seen you or spoken to you about it? A. No, sir.

Q. Had any of them written to you about it? A. No, sir.

Q. So up to the date of the receipt of the book by you in July, 1917, you were absolutely in ignorance of the existence of that work? A. That is correct.

Q. And you had nothing to do with the sending out or distributing of that book until you came back to Brooklyn in December, 1917? A. I had nothing to do with the distribution or sending out of it, either before or after I came back.

2262 Q. What was your position when you came back?

A. I came back and became active on the editorial committee of the "Watch Tower"; also what we call the doctrinal mail was given to me for reply. This mail consists of letters sent in, in which individuals ask that explanations be given of the passages, and sometimes ask advice on personal matters, the application of Christian ethics to their lives, and things of that sort.

Q. So that has been your work since the 20th of December, down to the filing of this indictment? A. Yes, sir.

Q. And you say that you had nothing to do with the

sending out or distribution of "The Finished Mystery" down to the present time? A. No, sir.

Q. I presume that since December 20th, 1917, you came in contact with Mr. DeCecca? A. Yes; I saw him at meals in the Bethel Home.

Q. All the letters that are attached to the indictment, and which have been referred to under Schedule G of the indictment, were written prior to December, 1917. Did you know of the writing of any of these letters prior to your return to Brooklyn? A. No.

Q. And did you ever hear of those letters subsequent to your return to Brooklyn down to the time of the filing of this indictment? A. I never did. 2264

Q. Do you know what has been referred to as the Cuminetti letter? A. I never saw the letter before I saw it in connection with the indictment.

Q. Did you ever read it in the "Watch Tower"? A. No.

Q. Did you ever see a copy of it as printed in Italian and attached to the indictment, which is Schedule—

At 3:30 P. M. a short recess was taken.

2265

After recess.

FRED H. ROBISON, resumed:

By Mr. Sparks:

Q. A copy of the Cuminetti letter, printed as a circular is Government's Exhibit 30. I will ask you whether you ever saw that letter? A. No; I never saw it.

Q. You know what I refer to? A. I saw it in the indictment; I never saw it before.

Q. You never read it in the "Watch Tower," you say? A. No.

Q. And did you know that it was in the Tabernacle after you came back there on December 20, 1917?

A. No. I was located at the Tabernacle. I am now at the office at the Bethel, five blocks away from the Tabernacle.

Q. You were at the Home? A. Yes, sir.

Q. You say you worked there? A. Yes.

Q. Have you been doing your work there since December 20th? A. Yes.

2267 Q. Mr. DeCecca is not there; he is down at the Tabernacle? A. Yes.

Q. And if you ever have been at the Tabernacle and passing through, did you ever know that there were any copies of this exhibit there? A. No; I knew nothing about it.

Q. Do you know what is referred to as the D'Onofrio letter, referred to in the indictment? A. Yes, sir.

Q. Do you know of the writing of that letter? A. Nothing whatever.

Q. You were not here at the time it was written or received in Brooklyn? A. No.

2268 Q. And you were not here when any copies of it were made and sent out? A. No.

Q. Mr. Robison, what was the first information you had that any person was criticising "The Finished Mystery"? A. About the 1st of March, 1918. I saw a Canadian newspaper which contained a notice of the fact that the Canadian press censor had suppressed the volume in Canada.

Q. And when did you first learn that the United States Government made any objection to it? A. I think it was on March 4th, Monday, the first Monday in March anyway, I received a copy of the "Scrantonian," I believe, a newspaper from Scranton, Penn-

sylvania, which contained an announcement of the arrest of one or two men in that vicinity for selling the volume.

Q. Shortly after that wasn't there a meeting of the Board of Directors of the Watch Tower Bible & Tract Society in reference to taking some action looking to find out what the objection of the Government was to the book? A. The following day, Tuesday, March 5th, such a meeting was held.

Q. And as a result of the action of the Board of Directors did you go to Washington for the purpose of ascertaining, if possible, what the objection to the book was? A. I did. I went to Washington on the night of March 5th; arrived there in the morning of the 6th. 2270

Q. Whom did you see there? A. I saw the Censor Committee of the Intelligence Section of the Army. This committee is located and was located at that time in the War College, South Washington, if I have the direction right.

Q. Did you see some committee? A. I saw the Censor Committee. Colonel Cox introduced me to four gentlemen, three in uniform, two lieutenants and one captain, and one in civilian clothing. The one in civilian clothing, I cannot recall his name now, seemed to be the chairman of the committee, as far as I could tell. I told them— 2271

The Court: How is this evidence in this case?

Mr. Sparks: It goes squarely, if the Court please, to the first and second count of the indictment on the question of intent. If this book was published without any knowledge of the claim that it violated any act, and as soon as it was called to their attention they tried to ascertain wherein it was objectionable

2272

Fred H. Robison

and wrong, and wherein it was impeding the United States in the raising of its military forces, and they took action to stop it. I think it is the best evidence that we could produce before any Court or jury that they did not intend to violate that law.

The Court: It is not very proper. That comes up when the question of punishment should be made. How wilful and determined and vicious they were to violate the law, but this is after it was all over.

2273

Mr. Sparks: You cannot tell what a man's intent is because the thing you are trying to determine happens after he forms his intent. Now, we are trying to get back and show that the things the Government claimed were done with a deliberate intent were done with a deliberate intent, and if a person is ignorant of a given state of facts, you cannot charge him with intentionally doing that act.

The Court: Conversations he had with the committee—does the Government want this to go in?

2274

Mr. Oeland: No, sir; we do not think it can be material on any point.

The Court: The question of punishment and sentence—

Mr. Oeland: I mean in the trial. I cannot conceive of any theory on which it could be done. It is restoration in a criminal case where a man is charged with taking something.

The Court: I could say I would offer to pay as soon as they got me.

Mr. Oeland: But that is all looking toward the punishment if it reaches that stage, but it is not a defense either on intent or anything else.

Mr. Sparks: It goes to the question of intent, and we are offering it for that purpose to disprove intent on counts 1 and 2.

Mr. Oeland: I object as wholly incompetent, immaterial and irrelevant and not within the issues.

The Court: Supposing the committee told him it was all right, to go right on and publish it?

Mr. Sparks: Then you certainly could not find any intent.

The Court: The committee would not have power to set aside the law of the land and render the Court helpless. 2276

Mr. Sparks: But some person has to be the standard. If the Government did not take the stand that this was objectionable, there could be no prosecution. The book could go right on circulating. Somebody has to say this writing violates the statute.

The Court: Well, that is the business of this Court.

Mr. Sparks: Only acting through the Government. This prosecution comes from the Government. It is in the name of the Government of the United States of America. The Government of the United States of America is the plaintiff in this action. They are the ones who are complaining. Now, we go to the United States Government at Washington, its duly constituted department, the one who first raises the question, and we say to that department wherein is this book violating the law and hindering the United States Government in the raising of its forces, and they say we consider pages so and so objectionable. All right. It is the first time that we have known 2277

2278

Fred H. Robison

that the Government claims that they are objectionable. We will cut them out. Now, if the Government does not—if we ask the Government if there is anything objectionable in this book, and the Government says no, it is not objectionable, and then we go on publishing the book, and then some other person comes along and says I think it is objectionable, why, we are acting at our peril. Every person is. We can only seek the best advice that we can, and when we go to the Government itself for advice on a particular topic, surely the Government then cannot be held to say that we intentionally published the book.

2279

The Court: That is not the law, and I will exclude this evidence.

Mr. Sparks: I take an exception.

Q. As a result of what you learned in Washington, did you make a report to the Brooklyn headquarters?

A. I sent a telegram that night, written as follows—

The Court: When was this indictment found?

Mr. Oeland: The 6th of May, 1918.

2280

The Court: When were these proceedings originally started, Mr. Buchner?

Mr. Buchner: The search warrant was originally issued on the 27th day of February. That is, the first issue was made on the 27th day of February.

Mr. Oeland: We object to any telegram that may have been sent out, or anything else after that date as irrelevant.

The Court: The telegram would be hearsay, would it not?

Mr. Sparks: No; I cannot say that the rule of hearsay applies to a case of this kind.

The Court: Well, perhaps the rules of hearsay should be repealed in a case of this kind, but I do not think so. It is denied.

Mr. Sparks: Exception.

Q. After you returned to Brooklyn, do you know whether any action was taken in reference to the elimination or stopping of the circulation of "The Finished Mystery"? A. I do not know of my own knowledge. I was not in touch with the circulation of the book.

Q. You only performed the act of making the journey to Washington, communicating with the Intelligence Bureau there and reporting back to the headquarters in Brooklyn? A. That is correct.

2282

CROSS-EXAMINATION by Mr. Buchner:

Q. Did I understand you to say, Mr. Robison, that you were an artist? A. A commercial artist; Yes, sir.

Q. Did you draw the illustrations in the seventh volume? A. No, sir.

Q. Do you know who did? A. No.

Q. Did you ever pass on that? A. No; I never saw them until I got the volume.

2283

Q. What is your position now with the Watch Tower Bible & Tract Society? A. Member of the editorial committee.

Q. That is the only title you have? A. That is all.

Q. Didn't you at one time claim to be the personal representative of the president? A. On the day and trip just described in Washington, that day and trip only.

Q. That was the only time you ever used that title? A. Yes, sir; I presented that letter which contained those words. I said nothing about myself.

Mr. Sparks: Mr. Buchner, may I interrupt before I forget it. On my direct-examination again?

By Mr. Sparks:

Q. Do you know this "Bible Students' Monthly," volume 8, number 4? A. I have seen it here in court.

Q. But aside from that, have you ever seen it? A. No.

Q. Have you anything to do with its publication? A. No.

2285 Q. Have anything to do with the written matter contained therein? A. None whatever.

Q. And knew nothing of the contents thereof? A. No.

CROSS-EXAMINATION resumed by Mr. Buchner:

Q. When did you say you had joined the International Bible Students Association? A. August, 1906.

Q. When did you first come to Brooklyn? A. I came to Brooklyn in March, 1909.

2286 Q. How long did you stay? A. I stayed there until I was in Brooklyn—not in connection with the society. I was in Brooklyn until September, 1915.

Q. Not in connection with the society? A. I say, in connection with the society until about the middle of June, 1915.

Q. And did you sever your connection with it at that time? A. Yes, sir.

Q. How long did you stay out of the society? A. I was away from the society's work in Brooklyn from the middle of June, 1915, until December 20, 1917.

Q. And then, you for the first time, came back again to the society? A. I came back to Brooklyn.

Q. When did you go back to the society? A. Back to the society on the 20th, of December, 1917.

Q. And were you a member of the society during that time that you say you had severed your connections in Brooklyn here? A. I was not a member of the society at all.

Q. Of the association then? A. I am a member of the People's Pulpit Association.

Q. When were you such a member? A. I have been early in 1909, when it was incorporated.

Q. You were one of the original incorporators of that? A. Yes, sir.

Q. And you retained that membership down to the present? A. Yes, sir.

2288

Q. Are you an officer in that? A. No.

Q. Have you ever been? A. No.

Q. Have you ever been an officer in the International Bible Students Association? A. No, sir.

Q. Now, during the time that Pastor Russell was alive—he died October 31, 1916, I believe? A. Yes.

Q. You didn't have any active connection with the society, did you, from the time that you severed your relations here in Brooklyn, I mean, until the 31st day of December, 1916, did you have any active connection with the society? A. No.

Q. When did you again take up active relations with them? A. The 20th of December, 1917.

2289

Q. Didn't you say you had been lay preacher during some portion of that time? A. Yes, sir.

Q. When were you such lay preacher? A. Every Sunday.

Q. For how long a period? A. During the period that I was away from here.

Q. During the period you were away from Brooklyn or the period you were here at the Tabernacle? A. During the period I was away from Brooklyn and also from the Tabernacle.

Q. Well, what was that date; fix it for me again, will you? A. I think it was June, 1915, June 15th. About the middle of June.

Q. And when did you leave Brooklyn? A. About the middle of September of the same year.

Q. Well, between June and September, you were not a lay preacher, were you? A. Yes; I was out on Sunday.

Q. Were you? A. Yes.

Q. Preaching where? A. At different places.

Q. In Brooklyn? A. No; cities around Washington.

2291 Q. Were you sent out by the International Bible Students Association or the Watch Tower? A. Assignments were made by them; yes, sir.

Q. You have been in close touch with them from that time until the present? A. No.

Q. You have been getting assignments from them? A. No, sir.

Q. When did you cease to get assignments from them? A. When I went to Dayton, Ohio.

Q. When was that? A. September—October, 1915.

Q. And when did you get the next assignment from them after that? A. It was all one assignment in August, 1917. That is all I got during that time.

2292 Q. August, 1917, who sent you that? A. The itinerary department.

Q. Did you send in your name and say you were again willing to go out? A. To assist with the other work.

Q. Did you then tell them you had leisure time? A. No.

Q. Did you in any way indicate to them your willingness to again accept orders to go out and act as a lay preacher? A. No.

Q. They just happened to send you an itinerary? A. They knew I would be willing.

Q. Never mind telling me if they are willing; did they send you an order without previous communication from you? A. Yes, sir.

Q. And that was the first one they sent you since 1915? A. Yes; I had been away.

Q. When in August was—well, you were away then, weren't you? A. Yes, sir.

Q. Where were you? A. Cleveland, Ohio.

Q. How did they know where you were? A. They had my address.

Q. Did you keep sending them your changes of address? A. Yes, sir.

Q. You had been a subscriber of the "Watch Tower" all that time? A. Yes, sir.

Q. You knew the seventh volume was out? A. 2294
When I got it in Cleveland.

Q. When did you get it? A. The last week in July, 1917.

Q. Where did you get it at the time? A. It came through the mail from Hammond, Indiana, I believe it was postmarked.

Q. It was mailed from Conkey's plant? A. Yea.

Q. Did you read it all? A. I started to read it.

Q. When did you finish it? A. I read the last of it February of this year.

Q. You had not read it through up to that time? A. No, sir.

Q. Well, since December of last year you have been 2295
down at the Bethel Home? A. December 20th.

Q. Answering doctrinal questions? A. Yea, sir.

Q. As portions of your doctrinal teachings you consider the seventh volume an epitome of the other six? A. No; I would not say that.

Q. The seventh volume—the seven volumes together constitute doctrinal teachings? A. There are no new doctrines in the seventh volume, however.

Q. You read the portion about patriotism coming out of the mouth of the dragon? A. I never—

Q. Coming out of the mouth of the dragon and being the spirit of the devil, you have read that? A. No, sir; that is not there.

2296

Fred H. Robison

Q. Isn't that there? A. No, sir; it is not.

Q. Doesn't it say here Satan has placed three great untruths, human immortality, the anti-Christ and a certain delusion which is best described by the word patriotism, but which is in reality murder, the spirit of the very devil? A. It is a picture of delusion which is called patriotism.

Q. Well, don't you consider that a definition of patriotism? A. I do not.

The Court: Did you read it in the book?

The Witness: Yes, sir.

2297

Q. What did you consider it meant? A. I considered it meant what it says, a certain delusion which is described by the word patriotism.

Q. Well, didn't you understand the author was alluding to what the ordinary person calls patriotism as a delusion? A. What delusion was—

Q. Now, didn't you understand that was the meaning of that? A. No; I think it is perfectly clear. It refers to a delusion which is called patriotism, false patriotism.

Q. Well, it does not say false patriotism, does it? It says which is best pictured by the word patriotism?

2298 A. Yes; it attributes and applies to false patriotism. It does not apply to true patriotism.

Q. You consider he had in mind two kinds of patriotism? A. Why certainly.

Q. Where does he say so? A. He just attributes generally and applies it to patriotism.

Q. Did you also understand that he meant there is a true and false anti-Christ? A. No.

Q. And a true and false human immortality? A. No.

Q. Why should it mean two things in one place and not in the other? A. Because he uses the word delusion.

Q. You consider patriotism something real? A. Certainly.

Q. What do you consider real patriotism? A. I think a real patriot is one who has a large heart and who works for the good of man, his fellowmen.

Q. To other men, outside of the limits of his own country, is that what you mean? A. Not necessarily.

Q. The citizenship of the country that they talk about? A. No, patriotism.

Q. Well, you just said a real patriot has at heart the good of his fellowmen; what fellowmen? A. The citizens of his country.

2300

Q. Why didn't you say so? A. Well, these are fellowmen, countrymen I could have said, as I say now.

Q. Did you consider that a real patriot owes a duty to the country in which he lives? A. Yes, sir.

The Court: And fight in war?

The Witness: Yes, sir, a citizen of the country.

Q. And does he owe that duty to his country? A. Yes, sir.

Q. Then, you do not believe this portion of the book? A. Yes; I believe the thought that was there and presented.

2301

Q. Well, it does not say that that called patriotism is a delusion. The author says a delusion which is best pictured by the word patriotism. Now, you understand from that that he means to describe patriotism as a delusion, don't you? A. No, sir.

Q. Well, isn't that what the English of it means? A. He is describing a delusion which is called patriotism.

Q. No; he says a delusion which is best pictured by the use of the word patriotism. He says that. He does not say other people call it patriotism? A. I am not responsible for the use of the language.

Q Well, do you accept this book? A. Not word for word; no.

Q. Did you accept any parts of it? A. Certainly; I believe the general tenor of it is a true and accurate explanation of the Books of Revelation and Ezekial.

Q. Do you believe the specific explanations of the different verses? A. I do not recall any exception.

Q. Well, you believe in his explanation of the 16th chapter of Revelations, the 13th verse, don't you? A. Yes; I believe the thought which is there intended to be conveyed.

2303 Q. And you believe the portion that is added on here, that this war itself is wrong and its prosecution is a crime? A. No, sir.

The Court: Give the exact language to the witness.

Q. "The war itself is wrong. Its prosecution will be a crime. There is not a question raised, an issue involved, a cause at state, which is worth the life of one blue jacket on the seas or one khaki coat in the trenches." Do you believe that? A. No, sir.

The Court: Did you ever make any objection to it?

2304 The Witness: No; I never had occasion to.

Q. You were one of the editorial writers down there? A. Yes, sir.

Q. And as such you passed the stuff that goes into the "Watch Tower" manuscripts? A. Yes, sir.

Q. And don't you know that ever since this book has been published that the "Watch Tower" has been carrying announcements of letters saying it is the expected volume? A. I do not remember that.

Q. Don't you know in the "Watch Tower" that was gotten up in December, 1917, December 15, 1917, on page 372, there is a big explanation of "The Finished

Mystery," saying that it is the true volume? A. I believe I saw it; I had nothing to do with that.

Q. Didn't you pass that? A. I wasn't there.

Q. Weren't you one of the members? A. I was, but not in Brooklyn.

Q. Your name is here as one of the editorial committee? A. Quite correct.

Q. And Mr. Hirsh's name also here? A. Yes, sir.

Q. And at that time Mr. Hirsh was no longer a member or director of the society, was he? A. I believe not.

Q. Yet three out of the five had to pass on everything that went into it, is that true, Mr. Hirsh could not, that only left four of you. Now, what "Watch Tower" did you O. K. matter in? A. It began with January 15th, I believe, of this year. 2306

Q. 1917? A. 1918.

Q. 1918, I should have said. And haven't you at any time put anything in in any way that speaks about the seventh volume? A. I believe there are some letters put in from individuals which express their gratification about having received it. I do not remember anything specific.

Q. You passed those letters? A. Yes, sir.

Q. And they were letters that said the seventh volume was the expected volume and expression of that sort; they were expression of approval of the seventh volume? A. Yes, sir. 2307

Q. And you passed them? A. Certainly.

Q. You passed them because you believed they were correct? A. Certainly.

Q. Therefore, you believed the seventh volume is correct? A. I believe the seventh volume is a correct interpretation of the Books of Revelations and Ezekiel.

Q. Do you believe that these things that are tacked on behind by way of explanation are any portion of

the explanation of that quotation from Jefferson? For instance, do you believe that is in explanation of the portion of the verse? A. No; not directly.

Q. Do you think it has any right there? A. Yes, as far as I can see.

Q. Then, you think it is an explanation? A. Part of the explanation.

Q. And you also believe the quotation from the Rev. John J. Holmes, that has been read to you before, is in the right place here? A. I don't see where else it could be.

2309 Q. Do you believe it is explanation of this? A. I think it had some right to it.

Q. And yet you did not believe it? A. I do not believe all the part that you read.

Q. What part of it do you believe, a word here and there? A. No. The general remarks were addressed to Christian people. I read that before I saw it in the book, however, and it was addressed as a message to my people on the eve of the United States going to war.

Q. That was the title of the sermon? A. Yes.

Q. And that was on the eve of the United States going to war? A. Yes.

2310 Q. Therefore, he could not have written it until after the United States was in war? A. I read it the first thing.

Q. And you believed it was correct?

Mr. Sparks: Will you allow him to finish the answer, Mr. Buchner, please.

The Witness: I read it in the "New Republic" magazine, published in New York.

Q. When? A. About the middle of April, 1917.

Q. When did you first read it in the book here? A. Some time in the fall, September or October, I believe, of last year.

Q. In the book? A. Yes, sir.

Q. What time in the fall was it? A. I could not say sure on that, September or October, I believe.

Q. And at that time there wasn't any question that you knew that the United States was at war? A. No question whatever.

Q. And there is no question about the fact that you knew there was a conscription bill? A. No.

Q. And yet, in the light of them, you read these things and raised no objection? A. Certainly.

Q. You were a member of the editorial committee?
A. Yes.

2312

Q. At that time? A. Yes.

Q. How long have you been such a member? A. Since Pastor Russell's death.

Q. Then, you were a member on March 1st and 15th, 1917? A. Yes; I had nothing to do with the copy until I came here in the latter part of December.

Q. Well, does that mean that as a matter of fact the statement in the front of the "Watch Tower," that three out of five men O. K. every thing in there?
A. No, sir.

Q. Mr. Rutherford is out of the town most of the time, isn't he? A. No; I understand there were—

Q. Three out of five who pass on it? A. Exactly.

2313

Q. And you did not pass on any of these until January of this year? A. Quite correct.

Q. When you came on to Brooklyn here to answer doctrinal questions, you answered letters that were addressed to Mr. Rutherford, didn't you? A. Some of them. And some of them to the Watch Tower Bible & Tract Society.

Q. Who gave you those letters to be answered? A. They were sent up, those that were addressed to the Watch Tower Bible & Tract Society, were sent from Hicks Street office. Those that were addressed to Mr. Rutherford were sent to his secretary, such as

were personal he left with him, and such as were not doctrinal questions generally, and all personal, all impersonal were sent to me.

Q. Who was the secretary? A. Mr. Goux.

Q. Was he in Brooklyn while Mr. Rutherford was traveling? A. I believe he was not at that time, no.

Q. Well, then, those letters could not have been given to his secretary? A. They were given to his secretary but he was not secretary at that time.

2315 Q. Who was his secretary at that time? A. I believe Mrs. Hudgings was still his secretary at that time.

Q. Mrs. Hudgings? A. Mrs. Hudgings.

Q. And when he was away you used to use her as your secretary? A. No.

Q. She did take dictation from you? A. She became my assistant early in January.

Q. Who sent the letters up to you that came in from the Tabernacle? A. Mr. Martin.

Q. Did he write anything on them when he sent them? A. Merely my initials on the envelope so it would come to me.

Q. Did he read them before he sent them to you? A. I do not know that.

2316 Q. Were they opened? A. Yes, sir; they had been opened by the correspondents.

Q. And the only ones referred to you were doctrinal questions? A. Yes, sir.

Q. Therefore, somebody had to read them before you got them to answer? A. The correspondents who handled the mail would open them and turn them over to Mr. Martin, and he would send them to me.

Q. You say you answered doctrinal mail; is that all you answered? A. Yes, sir; and mail asking advice.

Q. As to what? A. Christian ethics.

Q. And the Selective Service Act? A. After Mr. Rutherford's departure from Brooklyn about the 13th of January, the selective service mail, such as there was, came to me.

Q. And you answered them? A. Yes, sir.

Q. In accordance with what? Did you get previous advice as to Mr. Rutherford—from Mr. Rutherford, as to that? A. No; he left a slip of paper, he hoped to go over the situation with me before he left for his western trip, but he did not have the opportunity and merely left a slip of paper on which numbers of some of the forms were noted.

2318

Q. And it was a typewritten slip? A. Yes.

The Court: Those were form letters?

The Witness: No form letters. Merely forms which were issued by the Government.

Q. I show you Government Exhibit 21b and ask you if you ever wrote that letter and sent it out as an answer? A. Yes, sir.

Q. Is that a doctrinal question? A. No.

Q. Did you intend advice to be followed when you gave it? A. Yes.

Q. You knew, didn't you, that by giving this advice, you were keeping this man from accepting non-combatant service when he got into the military forces? A. No, sir.

2319

Q. Didn't you say so, when taken to camp you would not need to decline active war service, but decline such service as they may call noncombatant until such time as the President defines that term? A. Yes, sir.

Q. You expected him to follow that advice? A. Yes, sir.

Q. You realized when he went to camp he was subject to military orders? A. No, sir.

Q. He was not? A. No.

Q. Why? A. Because he was wrongfully classified.

2320

Fred H. Robison

The Court: I hardly think we need spend time getting his theory of the law on that question.

Q. You certainly expected him to follow that advice? A. Yes, sir.

Q. And gave it to him with that intent? A. Yes, sir.

Q. And you knew he had been classified and at the time you were answering his letter he was on his way to camp, or very shortly thereafter, wasn't he? A. Yes, sir.

2321

Q. He wrote you the letter wherein he said: "The local board here has classified me in Class 1, Division A, noncombatant service, and of course, I am going to appeal it and I would appreciate it, indeed, any advice or information you could give me that would help me. Surely I need spiritual help and need to be a faithful witness in this day and time. I have the first volume finished but gave my fourth volume away and if you think well that I have quotation from the fourth volume about our attitude, please quote it for me. Most of the eligible men here are much opposed to going and only go because they have to, while the older ones seem very mad and anxious to go, but none of them are going. Enclosed find stamped envelope. Praying God's blessing on all the work, and asking for remembrance in your earnest prayers, I am grateful to be your colaborer in Christ and partaker of his suffering. W. E. Drain, former address, Ashton, now moved to Jennie." And this is what you replied on February 15, 1918: "Mr. W. E. Drain, Jennie, Ark. Dear brother: We replied to your letter of January 30th, respecting what you consider to be improper classification by the local board. Your appeal may or may not alter the situation. If it does not, we think you would be best

2322

blessed and most happily representing the Lord's cause by declining to accept military service under such classification. The law provides for conscientious objectors to be classed in Class D, noncombatant service. So far the President has not defined what kind of service is intended to be comprised the word 'non-combatant.' Until he does, it seems to us advisable to decline to volunteer for such service. If your classification remains as it now is, you will be subject to the call, however, though not subject to active military duty. When taken to camp you would not need to decline active war service, but decline such service as they may call noncombatant until such time as the President defines that term. Very truly, your brethern in the Lord," you say in that, Mr. Robison, "it seems to us advisable." To whom did it seem advisable?

A. Speaking for myself.

2324

Q. You are not plural? A. No, I handled all of these letters in the name of the Watch Tower Bible & Tract Society and signed them that way; consequently I used the plural pronoun.

Q. You had not discussed this matter with anyone?

A. No, sir.

The Court: When this work came on you to answer this class of inquiries, it came on you suddenly?

2325

The Witness: Yes, sir.

The Court: You had no time to study the law or seek advice. How does it happen that you adopted the same course that had been pursued in the past, if you did not have knowledge of what had gone before, hadn't had a consultation with any of them?

The Witness: I had not had any consultation whatever. I studied the book of the Selective Service Regulations and from it I understood that such and such were the rights of conscientious objectors, and I was striving to secure those rights for those who inquired

about them, or told them how they could secure them, rather.

Q. Did Mr. Rutherford leave any directions of any kind with you as to how these letters were to be answered? A. No, sir.

The Court: Or what his policy had been before?

The Witness: No, your Honor.

Q. What is the blue book? A. The blue book is the book of Selective Service Regulations.

2327

Q. Who gave it to you? A. Mr. Rutherford left it and didn't have opportunity to give it to me. I think his secretary brought it to me with the slip I spoke of.

Q. Didn't it have interpretation about anything on it? A. No, sir.

Q. And did it have any form letters? A. No.

Q. And you followed the book that he had sent you in answering these letters? A. Yes, sir.

Q. And when you could not get an answer out of that book you asked Mr. Rutherford for advice? A. He was not there at the time I answered any letters on selective service.

2328 Q. Did you ask him for advice? A. I never had an opportunity to.

Q. Did you ever make any memorandum about it? A. I do not remember that I did.

Q. Is this your writing (handing witness a paper)? A. Yes, sir.

Q. What is the date you wrote that? A. January 24th, 1918.

Q. Addressed to whom? A. Mr. Rutherford.

Q. Doesn't that ask for advice on how to answer a letter? A. Yes, sir; he was in the west at that time.

Q. You did ask for advice then, didn't you? A. Yes, sir.

Q. Did you follow it when you got it? A. I do not remember. I did not read it through. I do not know what it is.

The Court: Well, read it through.

The Witness: No, I never acted on the advice. He told me that he did not know the status of such a man.

Q. You say you never acted on the advice? A. On that advice.

Q. You acted on the advice from him originally? A. I had no advice from him originally.

Q. You asked him for things and then ignored it, did you? A. He replied in answer to that, that he did not know what the status of such a person would be.

Q. If he did not give you any advice you could not act on it? A. Surely.

Q. And if he had answered it and given you any advice you would have acted on it? A. I certainly would.

Q. And whenever you could not answer questions you had to get his advice, didn't you? A. That was the only incident that I recall.

Q. You did not recall that until I showed it to you, did you? A. No; that is quite true.

Q. Then must have either so many that you can't recall it or the fact that you asked him for advice did not make any impression on you? A. I think that is the only incident. I did not know where he was. I had to get his schedule.

Q. Who sent you the letter that you asked advice about? A. Someone from Lancaster, Pennsylvania. I do not remember the name now.

Q. And you are sure you never asked him about anybody else? A. I do not recall any.

Q. Don't you recall or are you sure you did not? A. I do not recall.

2330

2331

2332

Fred H. Robison

Q. Are you sure that you didn't? A. No.

Q. You wouldn't say that you did not? A. No.

Q. You wouldn't say you did? A. No.

Q. You don't remember? A. No.

Q. And the only time you have been down there is since the 20th of last December? A. Yes, sir.

Q. And all you have answered are doctrinal questions and letters asking for advice; is that so? A. That is all.

2333

Q. And during that time how long has Mr. Rutherford been away? A. He was away from the 13th of January until the 5th of March.

Q. The 13th of January until the 5th of March. That is the only time? A. He has been away, of course, at other times, but that was the long period. I do not remember.

Q. But that was the only extended absence of his during that time? A. That is right.

Q. And you cannot remember while he was there whether you ever asked him for advice? A. I was not handling any mail of that kind while he was there.

Q. Who did handle? A. He did himself.

Q. Didn't he initial it? A. I don't know.

2334

Q. Did he have his initials put on it when he answered it? A. I do not know. I did not handle his mail. I never saw it.

Q. The bulk of this correspondence in the military file bears your initials, you know that? A. Everything during this period, as far as I know, because I was handling the whole thing.

Q. And that is the greater portion of it? A. I did not know anything about that.

Q. You didn't have any of these troubles until this questionnaire proposition came along, did you? A. I wasn't here when the questionnaire claims were

out. The questionnaire came out last summer. I was in Cleveland then.

Q. When? When did the questionnaire come out?

A. Along in the summer time.

Q. Don't you know, as a matter of fact, the questionnaire did not come up until after the 15th of December last? A. I just remember now; that is correct.

Q. And you were giving these men advice on the Selective Service Law? A. Yes.

Q. Didn't the book of regulations say when these questionnaires were to be mailed and to be returned? Probably, but I did not have anything to do with the questionnaire. 2336

Q. Weren't all these questions and answers bearing on the questionnaire? A. They were not.

Q. The classification? A. Classification.

Q. Well, the question of classification only came after the questionnaire; didn't you know that? A. Yes, sir.

Q. Then this did bear on that question? A. After that they filed their questionnaires and had presented their claims to the local board and they failed in some instances to get the proper classification, as they thought, then they would write in and ask how to proceed further. That is the questions in the mail I had. 2337

Q. And did you send them notice of appeal and tell them how to appeal? A. Yes, sir; and what forms to use.

Q. Then you knew the time limit in which appeals had to be taken? A. Yes, sir.

Q. You knew the form that had to be filled out there? A. Yes, sir.

Q. You didn't know the dates when the local boards were to send out the questionnaire and when they

had to be filed? A. No; I was not in Brooklyn at that time.

Q. When did you come to Brooklyn? A. The 20th of December.

By the Court:

Q. Did you know that the army required some service of conscientious objectors before the President defined noncombatant service? A. No.

2339 Q. Why were you telling them not to do anything? A. I did not mean by that that they should not make themselves useful, but they were not required by law to enter into some service, for instance, such as map making or things of that sort, and then have the President declare it noncombatant service a few days later, and then they wish they had waited.

Q. You told this man that you wrote to not to do anything. Now, you were conscious that there were—you were conscious that there was some service required of the soldier boys who claimed to be conscientious objectors in the different camps pending the definition by the President? A. I did not so understand the law.

2340 Q. But you understood, in fact, that the army officials were requiring some service? A. Some were and some were not.

Q. In some camps? A. Yes, sir.

Q. That was the reason that you advised this man not to do anything until the President defined non-combatant service? A. Yes, sir.

Q. Weren't you conscious then that you were advising that young man to oppose the orders of his superior, and the officers in camp wherever he might go? A. Well, there is a possibility in it. Of course, I did not know what camp he was going to.

Q. But without regard to what the orders were in the camp, you took the position he should not do anything

and disobey those orders and regulations; that is what you did? A. Yes, with the exception of what I wrote before.

By Mr. Buchner:

Q. As a matter of fact, you did not confine yourself to giving that advice to men who were members of your belief, did you? A. I believe I did.

Q. Did you or did you not? A. As far as I know, I did.

Q. You are sure of that? A. I don't know of any exceptions.

2342

Q. Well, now, did you confine yourself to giving that advice to men in your own association? A. Yes, sir; so far as I know.

Q. Look at this letter and see if that refreshes your memory. A. Yes, I wrote that.

Q. The man that wrote that to you was not a member of your association? A. He says he is not a consecrated Christian.

Q. He says that in that letter? A. Yes, sir.

Q. Who underlined that statement? A. Whoever read the letter before I got it.

Q. Who was that? A. Either my secretary or Mr. Martin or the correspondents at the Tabernacle.

2343

Q. One of those three underlined it and sent it to you? A. Yes, sir.

Q. And you knew from reading this letter he was not a member of your association? A. Yes.

Q. And yet you told him to follow his conscience? A. Yes.

Q. You wrote, "You love the Lord some and desire to do righteously, we suggest that you follow your conscientious scruples." You told him to follow his conscientious scruples, also? A. Yes.

Q. Now, the theory that he would get the same treatment that your men would? A. I do not know what you mean he would get.

Q. "While the law makes no provision for exemptions of those who have conscientious scruples against war, and who are not definitely identified as members of some religious organization whose tenets forbid participation in war, still the individual treatment would probably be very much the same, since consecrated believers are seldom recognized as such." Did you tell him that? A. Yes.

2345

Q. On the theory that you would make a conscientious objector out of him, although he was not a member of any religious sect whose principles were opposed to war? A. He says so in his letter.

Q. Is he a member of any religious organization, the principles of which forbid this man's participation in war? A. No.

Q. You knew those were the only class intended by the Selective Service Act? A. Yes.

Q. And yet you told him he ought to be entitled to exemption? A. No; you read the whole thing and read his letter.

Q. Isn't that what you intended to convey to him? A. I did not.

2346

Q. Did you tell him: "Although the law makes no provision for exemption of those who have conscientious scruples against war and who are not definitely identified as members of some religious organization whose tenets forbid participation in war, still the individual treatment would probably be very much the same, since consecrated believers are seldom recognized as such"? A. Yes.

Q. And you knew the individual treatment meant that he would be certified for a noncombatant service? A. Nothing of the sort.

Q. Isn't that what the majority of you men got? A. No, sir.

Q. Those men like these men whose letters you answered got? A. No, sir.

Q. The ones that are here, they did? A. That is true.

Q. And you told them not to accept that? A. Until he is classed properly.

Q. And you take this man whom you admit was not a member of your sect and tell him he would probably get the same treatment as most of your sect?

A. In camp.

Q. Well, didn't you tell him to follow his conscience? A. Certainly. What else would he follow?

Q. And he told you he was not a member of your sect? A. Read his letter.

Q. Isn't that what you got from his letter? A. I believe just what it said.

2348

Q. And you were perfectly willing to confirm him in that opinion and that stand?

Mr. Sparks: I object; the letter is the best evidence of that.

The Court: Proceed.

Mr. Sparks: Exception.

Q. You intended that, did you? A. I intended just what I said.

Q. And didn't you know if you made a conscientious objector of this man who was not in that sect you were impeding the Selective Service Act? A. I did not say that.

2349

Mr. Sparks: Let him answer, Mr. Buchner. Let the witness finish and then put another question.

The Court: Proceed, Mr. Robison, if you will?

The Witness: No, sir.

Q. You didn't know that? A. No, sir.

Q. You didn't know that making a conscientious objector out of a man who was not such before was obstruction to the Selective Service Act? A. No, sir.

The Court: You were willing he should become a conscientious objector, notwithstanding he did not belong to any church or sect, you would be willing that he should try to get such classification?

The Witness: No. I wasn't speaking of the classification at all.

The Court: Or get that service. You suggested that to him, it would come out about the same?

The Witness: His treatment in camp would be about the same is what I had reference to.

2351

Q. I show you Government's Exhibits 17, 18, 19 and 20 and ask you if those are the letters that you wrote? A. Yes, I wrote these.

Q. When you wrote them you intended the men that got this advice to follow it? A. Not all the advice. That is what advice there is. Some are just information.

2352

Q. Well, take this letter from Ed Lott; it says: "I am of a draft age, but the local board of my county exempted me from the fighting part because of me being a member of the I. B. S. A., but they did not exempt from the noncombatant part. Do you think it would be displeasing to the Lord to serve in the latter? Make mention of me in your prayers. Yours in the Lord's service, Ed Lott." And your answer: "Dear Brother: We have your letter of the 28th of January stating that you have received classification in noncombatant service. Since that particular non-combatant service which the law speaks of as being given to conscientious objectors has not yet been defined by President Wilson, we suggest that any decision on that point be held off until he does make such definition. Such noncombatant service as is now available in camp is assumed voluntarily, and under the circumstances we rather advise that it be declined. Very truly, your brethren in the Lord." You

gave him that advice? A. Yes, sir; such noncombatant service as was not then unlawful.

Q. You realized at the time you wrote it he was relying on your answer? A. I assume so.

Q. And he would follow it? A. I think so.

Q. And you intended him to follow it? A. The President defined noncombatant service; until then, yes.

Q. Regardless of what the situation would be at the camp to which he might go? A. Yes.

Q. Even though he were ordered to do probably noncombatant service? A. There is no reference to small things around the camp.

2354

Q. From the tone of this man's letter you would take it that he would follow literally your advice? A. Probably.

Q. And yet you sent him that? A. Yes, sir.

Q. Intending him to follow it? A. Yes.

The Court: What is it that he says there, rather than—I didn't get the last part until the President defines—

Mr. Buchner: "We rather advise that it be declined."

The Court: Read what is before that.

2355

Mr. Buchner: "Such noncombatant service as is now available in camp is assumed voluntarily, and under the circumstances, we rather advise that it be declined."

Q. As a matter of fact, you knew that was not true? A. What wasn't true?

Q. That the noncombatant service was assumed voluntarily? A. No.

Q. Didn't you know that in the military camp, officers give orders to men; they don't ask them what they want to do? A. But a conscientious objector is on a peculiar footing during that period.

2356

Fred H. Robison

Q. Very? A. Yes, sir; very peculiar it was.

Q. You expected the officer would ask him if he wanted to do this or that or the other thing? A. I do not know anything about that. Some of them did.

Q. But you did say that you would keep every conscientious objector going to camp from doing anything voluntarily; isn't that it? A. I am assuming various branches of the service which might be called non-combatant until the President defines what is intended to be given to conscientious objectors.

2357 Q. But didn't you intend until they came, if it ever did come, that every conscientious objector would refuse to do anything voluntarily? A. No.

Q. Anything around the camp voluntarily? A. No, sir.

Q. Well, don't you say so? A. Talking about the branch of service there.

Q. Noncombatant work? A. Yes.

Q. Everything around the camp, in your opinion, is one of two things, it is either combatant or non-combatant? A. Incidental things around—

2358

Mr. Sparks: I ask on behalf of the witness an opportunity to finish his answers before interruption.

The Court: The witness does not answer directly. The examiner asks a question and the witness does not answer it. It is something altogether different. It is very proper for the examiner to interrupt him. It is not the duty of the Court to interrupt him, unless he chooses to do so. You may proceed. You be as considerate as you can of the witness. Be as patient as possible. Try and get a direct answer to your questions.

Q. Well, now, Mr. Robison, you understand that everything around the camp, all work is divided into two classes, combatant and noncombatant, don't you?

A. The service is so divided. I am not sure about the work.

Q. When I say everything, I mean everything that is done by men who are members of the forces in the camps; put it that way. A. Yes, sir.

Q. You knew that conscientious objectors did not have to perform any combatant service? A. Yes.

Q. Do you think the only thing they could decline was noncombatant service? A. Yes, sir.

2360

Q. Your advice was to acquaint all of them? A. In the service, yes.

Q. Your intention being to keep those men from doing any of that noncombatant service voluntarily? A. Yes, sir.

Q. That necessarily implied a refusal on their own part to do anything in the camp, didn't it? A. In the letters, yes.

Q. And that was your intention when you sent them? A. Yes, in other letters I elaborated on—

Q. We are talking about the two we were discussing and in those that was your intention? A. Yes, sir.

2361

By the Court:

Q. And by that course you intended to hinder the War Department, did you? A. No, your Honor.

Q. Did you know of anything more you could have done than to tell them not to do anything? A. Why, yes; I understood they were not subject to orders during that period, until the matter was decided by the President.

Q. Do you understand there is anything more you would not have told them, you told them not to do anything; was there anything more you could do

2364

Fred H. Robison

to hinder the War Department? A. Not that I know of.

Q. In that kind of service? A. Not until the President said so.

Q. With that kind of a soldier boy you told him not to do anything until the President defined non-combatant service? A. Yes, sir.

Q. What more do you think you could do with that kind of a soldier boy than you did do to hinder the Government and hinder the War Department in the organization and constructing an army? A. I do not know; I am sure I never thought of that.

Q. Well, now, as you think of it, that is the very worst you or anyone could do with that kind of a soldier boy, isn't it? A. I wouldn't say it is the worst. I was simply trying to get him his rights in the matter.

(At 5:00 o'clock P. M. an adjournment was taken until June 14th, 1918, at 10:00 o'clock A. M.)

Brooklyn, N. Y., June 14, 1918.

2363 The court met pursuant to adjournment at ten A. M.

Present: Parties as before.

FRED H. ROBISON resumed the stand.

Cross-examination continued by Mr. Buchner:

Q. Mr. Robison, on Government Exhibit 19, you said you wrote on February 12, 1918, it is addressed to Mrs. W. C. Kemple. You say there: "So far

as the President has not defined noncombatant service and such service under that name which is being performed in camp is volunteered by those engaged in it. It is not necessary to volunteer for such service and we usually advise against it, pending some statement on the part of the President, which he may or may not make later." You intended her to give that information to someone else, didn't you? A. I did not by the letter.

Q. From the context of the letter? A. Yes, I think so.

Q. And didn't you gather from her answer that the person to whom she was to give this was somebody within the draft age who has been classified? A. I would gather so. 2366

Q. And had been classified for noncombatant service? A. I don't know as to that; I think so. It sounds like that.

Q. You intended the letter to mean what it says? A. Yes.

Q. And intended her to hand this doctrine to this man and any others she might meet? A. Yes—any others she might meet? No.

Q. You placed no restriction on her distributing this information? A. No. 2367

Q. You did not specifically refer to the man for whom the information was intended? A. I don't remember; it is an answer to a letter.

Q. Did you refer to the man; I read it all to you? A. No, there is no reference in there.

Q. Those answers, I presume, are the same you would make about Exhibits 17 and 18; they are both practically the same, I believe, you may look at them, except that they are addressed to men?

Mr. Fuller: I object, that is too ambiguous; those answers you make in respect to those letters. These are different letters.

The Court: You may interrogate him if you wish to do so; I hardly think this is an improper question on cross-examination.

A. These letters are on an entirely different subject; they are inquiring about membership in our association.

2369 Q. Oh, yes. We will take this letter, Exhibit 18. It is addressed to Mr. H. G. Madison, St. Cloud, Minnesota, and you refer to the fact: "We were very glad to hear from you under date of the 18th of November, and are sorry to have kept you waiting for a reply. From now on, we hope to be able to respond more promptly to the communications received." Didn't you say you returned to the home on the 20th of December and this letter had been lying around all that time? A. Probably on my desk.

Q. You do have a desk? A. I had a desk which was there, which I used when I came.

Q. Anyone else use it when you came? A. No, sir; I don't know.

Q. It was saved for you? A. I don't know.

2370 Q. It might have been put on your desk. If it was saved from the 16th and it was on your desk, it had been put on your desk, hadn't it? A. No, sir.

Q. What do you mean? A. When I came to answer that letter that was on my desk.

Q. How did it come to get on your desk? A. I don't know.

Q. How long before the 20th of December did the

people in charge of the Bethel Home and the Tabernacle know you were coming there? A. I think about three weeks.

Q. Were you ordered to come or did you volunteer? A. I volunteered to come.

Q. They expected you? A. Yes.

Q. Did you write them to that effect? A. Yes.

Q. When? A. I think it was in November some time.

Q. What time in November? A. I don't recall, don't know.

Q. Before or after the 16th? A. I don't know.

2372

Q. You don't know what part of the month it was? A. I don't know exactly.

Q. When did they write to you and tell you to come on? A. I am not sure, although I handed in my resignation at Cleveland to take effect the 15th of December. I handed it in on the 1st of December.

Q. You handed it in after you got their communication? A. Yes.

Q. You must have heard from them in November? A. Yes.

Q. Then they saved this letter for you to answer?

A. I don't know if they saved it especially for me to answer. There was a great deal of mail piled up. Mr. Hirsh had the desk before. Mr. Van Amburgh had it a while.

2373

Q. The same desk you have? A. Yes.

Q. The second paragraph: "We note your question as to how to become a member of our association or society. We have nothing to join in the ordinary sense of that term. The International Bible Students' Association classes are classes of individual consecrated believers in the Lord Jesus who are studying the Bible in the light and with the help of the publications of the society. They have to subscribe to

nothing except to do the Lord's will as found expressed in His Word. In fact, this is the closest tie possible to be had. Viewed outwardly from the world it leaves much to be desired." When you said with the help of the publications of this society, you included in that the seventh volume? A. Yes.

Q. Did you know Madison before you answered his letter? A. No.

Q. Did you know what age he was? A. No.

Q. Did you know whether he was registered under the Selective Service Act? A. No.

2375 Q. And whether his purpose in asking you this question was to claim membership, so he could make claim as a conscientious objector? A. There is nothing in there about membership.

Q. He asked you how to become a member. He asks in November how to become a member? A. Yea.

Q. Had you heard from him before? A. No.

Q. Did you ask that? A. No; why should I ask?

Q. You told him anybody could be a member who took the publications? A. No; who made a full consecration to the Lord, that is what they have to do.

2376 Q. No; it says: "They have subscribed to nothing except to do the Lord's will as found expressed in His words." A. What is that?

Q. That is not true? A. Certainly it is true.

Q. Don't you tell believers in the Lord to subscribe to the "Watch Tower"? A. I expect they would.

Q. So that that statement is not true? A. Certainly it is true. I told him everything that I could.

Q. To subscribe to nothing, to do the Lord's will? A. That means everything on earth a Christian should do, anybody who does nothing except—

Q. So that anybody who does nothing except to

subscribe to the Lord's will— A. You are playing double on the word "subscribe."

Q. "Who are studying the Bible in the light and with the help of the publications of the society." How could they get the publications if they did not get them from your association? A. Subscribe to the Lord's will and subscribe to the publications are very different things. You are saying about subscribing to the publications.

Q. "With the help of the publications." How could he get the publications if he did not subscribe to them? A. He could buy them.

2378

The Court: That has already been made pretty plain, the matter of formality necessary to be gone through in order to become a member. Unless there is some special thing you wish to draw out particularly.

Q. Then this Exhibit 17 is practically the same as 18 in regard to how a man becomes a member?

A. Yes, the elementary steps are mentioned there.

Q. I think you said yesterday you had written this answer? A. Yea.

Q. Didn't you know at the time you had written this answer—

2379

Mr. Fuller: May we have it identified?

Mr. Buchner: I am going to offer it; you may mark it now.

Mr. Fuller: If it is an exhibit—

Mr. Buchner: No, it is not.

Q. You had read the letter attached before you—
A. Answered it.

Mr. Buchner: I offer the letter and the answer in evidence.

Mr. Sparks: Let me see it. We object

to the letter of Winifred Johnson as not binding in any way upon any of the defendants here, as to any matters therein stated. The only thing admissible about these documents would be the letter itself in answer to it.

The Court: What is the tendency of the letter? We won't take time for the Court to read it.

2381

Mr. Buchner: It is a letter I showed him yesterday, asked him about, about a man who said he was not a member of the sect. Also, the fact—the effect of the seventh volume on him. The attached carbon is his letter in answer to that letter.

Mr. Sparks: I cannot see how the statements of third persons can be binding on the defendants.

The Court: What, in effect, did the writer say?

Mr. Buchner: Having read this seventh volume, that war was wrong, and it was militarism.

The Witness: No, he didn't say that.

The Court: Had it that tendency?

2382

The Witness: He said he was more convinced. He didn't say anything about militarism.

The Court: The Court is of the opinion that that makes the letter and answer clearly admissible, because it brings home to the witness and his associates that he had knowledge of it, of the effect of the seventh volume, the effect it was having upon the human mind and the human heart and conscience.

Mr. Fuller: That is secondary evidence of that effect. The effect itself is now shown, the witness is not here.

The Court: That is his knowledge, which had come to his attention. He acted upon it. Did he in any way disapprove of what was said in the letter?

Mr. Buchner: No, sir,

The Court: It may be admitted.

Mr. Sparks: Exception.

Admitted and marked Exhibit 33.

Q. Before I read this letter, Mr. Robison, I want to show you some pencil marks in it, and more pencil markings up there on the top. Do you know who put those on? A. It looks like the handwriting of my assistant at that time; Mrs. Hudgings, I think it was.

2384

Q. All that writing is in Mrs. Hudgings' handwriting? A. Yes.

Q. And the underlines? A. Yes, she read it through first, merely to mark the parts I might catch at a glance.

Q. And the underlined parts were underlined before you answered it? A. Before I saw it.

The Court: How is that initialed?

Mr. Buchner: F. H. R./Z.

Q. Was "Z" Mrs. Hudgings' symbol there? A. Yes.

2385

Q. Is she the only one that used it? A. The only one who used it for me. I don't know about the Tabernacle.

Q. How long did she use it while doing your work?

The Court: Or was it all the time you were there?

The Witness: I think so.

Q. She was the only stenographer you had? A. Yes, I used a dictaphone a while.

Q. This letter was sent to you from the Tabernacle? A. I don't remember, whatever it says. It came from the Tabernacle.

Q. From the Tabernacle, or did it come to the Bethel Home? A. That I cannot say how the envelope was addressed. I presume from the Tabernacle.

Q. Who sent it up? A. Mr. Martin, I guess.

Q. It was opened before you got it? A. Yes.

(Exhibit 33 read to the jury.)

Q. When you wrote that letter you knew, at least, one man had been convinced by the seventh volume that militarism was wrong? A. No, sir.

2387 Q. Didn't you believe him? A. It doesn't say that.

Q. "I feel more convinced." A. More convinced.

Q. "That militarism is wrong and that it would be a sin to fight for these kingdoms knowing they must fall." A. He is talking about kingdoms, not the United States. The United States is not a kingdom.

Q. How could he be talking about fighting for kingdoms when he lived in Ohio? A. That is generally classed by the Scriptures all governments of the earth.

Q. This Government is included in the word "kingdom" in the Scriptures? A. I don't remember any
2388 specific instance.

Q. I understood you to say it was; isn't that so? A. The general term implied civil power; I don't remember any instance in which it was used for the United States.

Q. According to your interpretation the word "kingdom" means this country, the general civil power here? A. I don't say that.

Q. Does it or doesn't it? A. I don't think it does. I don't remember any Scripture which says so.

Q. Then it doesn't mean anything? A. Yes, talking about general worldly conditions.

Q. No; he says it is a sin to fight for these kingdoms, knowing they must fall. Didn't that include this country? A. It probably did in his mind. I don't know what he thought.

Q. That is what you considered him to mean? A. I had no thought of that phase of it.

Q. Didn't you pay attention to it? A. I read it through.

Q. You answered it? A. Yes.

Q. You answered it without knowing what it meant? A. Certainly I had an idea what he wanted to know.

2390

Q. You knew what his letter meant? A. I didn't make any comment on his own views.

Q. You did not make any comment. He says: "I am not a consecrated Christian," not a consecrated Christian being underlined, and you say "for one who understands the Lord's plan and has seen some of the goodness and power of God, we could not make any other suggestion than for you to present yourself to Him in full and complete consecration." Isn't that a comment on what he said? A. That is my suggestion.

Q. It is advice? A. Yes.

Q. You gave him advice knowing the advice you gave he would take as the word of God? A. No, sir.

2391

Q. Didn't you say that? A. I don't know.

Q. "I am willing to obey the powers that be as long as they do not conflict with our duty to our God, therefore I pray that you may help to show me what my duty is, and I know it being God's will He will help me do it"— A. Help to show me.

Q. "I know, it being God's will He will help me to do it." Didn't you understand he would take what you gave him to be his duty as God's will? A. No, sir.

Q. What did you think he meant? A. He thought I might help him to a decision, an understanding on his part of what God's will would be.

Q. You realized the seventh volume did help him as to what his duty unto God was? A. From what he says.

Q. You understood that? A. I understood what he said.

Q. Didn't you understand that is what he said? A. I understood what he said in the letter.

Q. You won't tell me what he said? A. I understood what he said. If you will let me have the letter.

Q. No; what did you understand from the letter?

The Court: Let him have the letter.

A. "I am not a consecrated Christian. I have always counted myself as one of you and so stated it in the questionnaire, but did not make any claim for exemption on that ground. I have talked with some of the brothers here and they advise me to just use my own judgment in the matter. I am willing to obey the powers that be as long as they do not conflict with our duty to our God. Therefore I pray that you may help to show me what my duty is." He asked me to help him, to show him what his duty was. He didn't say he would follow it. He hoped to get help from this quarter as from other quarters. Perhaps he would get it from other quarters as well.

Q. Your other quarters? A. Yes.

Q. Those are members of your association? A. Yes.

Q. He wouldn't have called them brothers? A. Certainly; anybody who is consecrated is a brother.

Q. When you told him he should make a full consecration you meant he should join your association?

A. No; I meant exactly what I said; give his word to the Lord.

Q. Doesn't that make him a member of your association? A. No, sir; that is a basic principle. No one can be a member without being consecrated, all fully consecrated.

Q. Couldn't all fully consecrated claim to be members? A. Yes, if they take subsequent steps necessary to identify themselves with a class, study there, recognized by the class as efficient in the Scriptures in the light of and help of the publications which the International Bible Students' Association issue, and then give themselves for immersion, baptism, then they would become a member.

2396

Q. Not until then? A. No.

Q. When Mr. Van Amburgh said a man could be a member of a class without anyone knowing it, that was not so? A. If he said that, that wasn't so; I am not responsible for what he said.

Q. That is not so? A. Those words you said are not so.

Q. You did not understand a man could be a member of this association until after he was immersed? A. No, sir.

Q. You didn't tell him that in your letter? A. I didn't tell him everything that I knew. That letter from New Jersey, that sounded like a decoy letter. If he wanted some more information he would write again.

2397

Q. Why should anybody send you a decoy letter on the 14th of January? Did you expect you were going to get into trouble with the United States? A. No, sir.

The Court: Did you have any decoy letters?

The Witness: They sent one dollar and said that they wanted to become members.

Q. You did not realize that might be an attempt of some man to claim exemption? A. It might have been; he got what he wasn't looking for; he did not become a member.

Q. That is because you thought it was a decoy letter? A. I wouldn't answer a letter that sounded doubtful.

Q. You answered this? A. Everything I said there is legitimate.

Q. Is it all true? A. Yes.

Q. "Everyone whose heart is fully consecrated to the Lord and who accepts Christ Jesus as his Savior, and who is studying the Bible in the light of and with the help of the publications which this society issues, may properly consider himself an associate in the work." An associate in the work means a member of the International Bible Students' Association? A. No, sir.

Q. Not to you. Didn't you realize that is what it might mean to this man? A. No, sir.

The Court: Isn't that what your name implies—"association"?

The Witness: Yes, there is an association.

The Court: All those co-operating in it are associated?

The Witness: Associates in the work.

Q. You realized that that was the impression this man would get from this letter? A. Read the whole letter; you haven't read it all.

Q. Is there any part that qualifies that, or defines that? A. Read it and see.

Q. "All such find that they have a deep community of interest in all affairs of both the present and the future. Their relationships are much closer in heart than are the relationships of most people in the oldest ecclesiastical organizations. You will see, therefore,

that it is a matter of your own heart attitude toward the Lord and His work, rather than perfunctory subscription to any given set of rules." Does that qualify it? A. Certainly.

Q. Didn't you flatly say it is a question of a man's heart? A. Heart attitude to the Lord. If this man had manifested his interest and inquired further what he could do, what could be done. I would tell him, give him the address of some class in his vicinity where he could study. He would know if he studied the volume, especially the sixth volume, what the conditions of membership are, aside from giving his heart to the Lord, there would have to—he would have to go ahead and manifest, symbolize this consecration he made in water baptism.

2402

The Court: Is there any dispute, disagreement in the association as to the form necessary to be gone through to become a member?

The Witness: No.

The Court: Your testimony is somewhat different from the testimony of other defendants in this court. The testimony is not consistent with what you wrote in the letter. If there are any further explanations you have to make of that, I wish you would do it.

2403

The Witness: What do you mean, let me see it? I say we have nothing to join, not the ordinary use of that word. Everyone whose heart is full consecrated to the Lord, and who accepts Christ Jesus as his Saviour, and is studying the Bible in the light of and with the help of the publications which this society issues, may properly consider himself an associate in the work. He would not be considered a full member, because, without stating it here, he would not have symbolized his consecration by water baptism. I omitted that. That should have been put in, could have been put in. All who find they have a deep com-

munity interest in all affairs, both present and future, their relationships are more closer at heart than the relationship of most people in the older ecclesiastical organizations. You will see it is a matter of your own heart attitude toward the Lord and His work, that is, that his heart attitude toward the Lord and His Word, would be the basic thing toward his membership in the International Bible Students' Association.

The Court: You did not say that is the basic thing. It is a matter of his own heart?

2405 The Witness: That is brought in apposition, rather than perform subscription to any set of rules. I was trying to sketch in his mind the difference between membership as we see it and membership as ordinarily viewed in ecclesiastical organizations generally. That is what I was driving at.

The Court: When the writer referred to kingdoms that must fail—

Mr. Buchner: Fall.

The Court: Of course, you construed that as worldly kingdoms?

The Witness: Yes, your Honor, that is in his letter.

2406 Q. You said you thought this was a decoy letter. When did you first get this fear? A. No. I say it might have been.

Q. You state it might have been. When did you first get this fear of decoy letters? A. I never had any fear; simply doesn't sound usual to me.

Q. You answered it? A. Certainly. What else would I do?

Q. If it did not sound usual you would be more precise in your answer than to one of your own sect? A. Yes.

Q. Consequently, this must have been written with more care than if between one of your members? A.

Certainly; I did not tell him all the steps. If he manifested a real interest, and said "I appreciate your suggestions," what else could I do? What shall I do? I would have gone on and explained. I had a heavy correspondence, and answered as briefly as I could consistently.

Q. How heavy was your correspondence? A. A great deal of the back correspondence when I got there, probably averaged then in doctrinal matters about forty or fifty letters. Of course, that is not many letters, but many are research work.

Q. When you say forty or fifty doctrinal matters, do you include letters on the Selective Service and how to serve, do you count those as doctrinal letters? A. I would class those as doctrinal matters.

Q. Would you class the other type of selective draft letters in that? A. No.

Q. How many of those others did you have? A. Seventy-five or eighty in the time I was handling them.

Q. About ten a week? A. Yes.

Q. Weren't there more than that? A. I don't think so.

Q. This decoy letter—who ever gave you that idea there was a possibility of it being a decoy letter? A. I had seen two before. Some were so crudely worded they didn't know how the individual approached, what way, sent it out.

Q. You did not realize he thought your association was a good place to get into to get out of the draft? A. Yes, but he did not get what he wanted; he did not become a member.

Q. Don't you think that was an explanation? A. Correct, as a possibility.

Q. You realize ignorant individuals who wrote letters to this effect, that might be a logical reason to them? A. No.

Q. That might strike you as the reason for a man

2408

2409

of such— A. I might have had that idea, he might have applied to the Quakers or the Mennonites.

Q. When did you get one of these letters so crude that you returned it? A. I did not return it.

Q. You returned the money? A. Returned the money.

Q. When did you get one of these? A. In about the first of January.

Q. Didn't you look over "The Finished Mystery" to see why they had that idea? A. No two of those were connected. You see—

2411 Q. You had been fearing decoys for a long time? A. No.

Q. You had an idea there was a possibility of decoys? A. Yes.

Q. You remember the time Mr. Converse was down in the building under the search warrant proceeding? A. Yes.

Q. You had a conversation with him in which he used the word "decoy"? A. I don't know, possibly.

Q. Do you remember the conversation? A. I remember he was there talking.

Q. Do you remember mentioning the address 70 Fifth Avenue, Manhattan? A. Yes.

2412 Q. In what connection? A. I think he picked up a letter with others there which came from that address. I don't remember what the conversation was.

Q. Don't you remember talking to Mr. Converse and telling him that one time a man came to your place who wanted to be helped out of the draft, you thought he was a decoy, and wouldn't have anything to do with him, and advised him to go to 70 Fifth Avenue, because you knew that was the pacifists' headquarters? A. No.

Q. You are sure you didn't say that? A. Yes.

Q. No conversation along those lines? A. No conversation along those lines. I did not say a man came there.

Q. Didn't you say you sent him to 70 Fifth Avenue? A. No, sir.

Q. Didn't you tell him you thought the man was a decoy? A. I possibly did.

Q. What man were you talking about? A. I was talking about a letter which came, if I remember it right, from Camp Upton, in which he made representations that he was a conscientious objector, and wanted to know if we could help him. I said no, we are not in a position to help him since he did not state he was a member of our association. If legal advice was what he wanted, that I had this letter in my hand, it came in the same mail, possibly they could give him legal advice.

2414

Q. Advice as to how he could get out of the draft? A. I don't know.

Q. Don't you remember what he said about it? A. No.

Q. Why did you use the expression you were afraid he might be a decoy? A. He wanted to get me to give advice, or wanted me to give advice, a position I did not care to take.

Q. You realized, then, you hadn't any right to give advice on draft matters to men outside of your sect at least, you were sure that far you could not go? A. No.

2415

Q. What do you mean, no? You were not sure? A. I was not sure.

Q. You would not take chances? A. Anybody could give advice within the law.

Q. Would your advice—were you afraid the advice you were going to give him would not be within the law? A. No.

Q. Why didn't you give him advice the same as those men who did not belong? A. I gave him advice that our activities were along this line limited to be our members, and intended to be. I did not know his cir-

cumstances, he did not describe them fully, and I did not care to go into it further.

Q. You said you confined your advice to men who were members of your sect? A. I intended to.

Q. Yet you wrote this man in Nelsonville, Ohio, Johnston, who said he was not a member? A. He said he was connected with us, associated with us a long time.

Q. That is true? A. Yes.

2417 Q. You knew consecrated members— A. Had a right to object. The Constitution says every man should worship God according to his own idea.

2418 Q. You were perfectly willing to confirm him in his stand, although you knew the law said he had to belong to a well organized religious sect, whose principles before the 18th of May, 1917— A. I know as far as classification is concerned, that is all the law granted him, but as far as being a conscientious objector, he was not made a conscientious objector by the rules nor by anybody. Furthermore, when I wrote, I knew from our committee who visited the War Department and Secretary Baker that they had under way arrangements for all conscientious objectors. I thought it would be any day. It came the 20th of March.

Q. You didn't tell her that? A. No.

Q. Why didn't you tell her the correct information? A. I told her everything I knew. These facts I knew helped me to formulate the opinion. I knew he was a conscientious objector. The Constitution says he should be allowed to worship in his own way.

Q. You said you knew the Selective Service Act did not make him a conscientious objector? A. It neither made him nor unmade him. It furnished with the convenience of the classification of a conscientious objector. It did not make him one.

Q. You knew what made him a conscientious ob-

jector was the fact he was reading Pastor Russell's works, particularly the seventh volume? A. No; he said the seventh volume confirmed him in his belief. He did believe it. He was a conscientious objector. There was no question about it at all.

Q. Not in your mind? A. He was, of course, he was.

By the Court:

Q. Not within the meaning of the law. Do you say he would be? A. Not within the meaning of the classification.

2420

By Mr. Buchner:

Q. Did you always confine your activities in regard to service in warfare to men who were members of your sect? A. I said I intended to do that; I was too busy to do otherwise.

Q. Did you always confine it to men within the draft age? A. Within the draft age.

Q. And within the draft? A. Yes.

Q. Did you ever go outside of that into the realm of a man enlisted? A. The letter you have in your hand, the letter you put up yesterday, was a matter that did not come within the Selective Service Act.

2421

Q. Concerning what? A. It concerned a query, if I remember the situation rightly, it concerned a query that came from his sister as to what he could do. He had become a conscientious objector after he enlisted. He had been in the army some time. What could he do, she asked me. I did not know, it was not covered by the Selective Service Act, consequently I asked a lawyer on the subject. He did not know.

Q. The lawyer being whom? A. J. F. Rutherford.

The Court: Is he a member of the bar?

The Witness: Yes, the United States and the State bar.

2422

Fred H. Robison

Mr. Sparks: He is also a member of the Ohio bench.

Q. You helped to get this man who enlisted voluntarily out of the army? A. No; he wanted to know what he could do through his sister. How he could get in noncombatant service, how he could proceed.

Q. How he could get into noncombatant service, or out of the army? A. I don't—

2423

Q. If you knew of any way to release him he would be grateful for your help or information, that would help him to be released? A. That was his own desire. I asked a lawyer on the subject and he did not know, that is what I told her.

Q. You went looking for information to get this man out of the army? A. No; to see what could be done.

Q. For the purpose of getting him out of the army? A. No; for the purpose of answering the letter.

Q. Why didn't you write and say "I don't know"? A. That is what I did.

Q. Why didn't you say that? A. I did not know if there was any law.

2424

Q. If there was any way he could get out of the army you were perfectly willing to find it out? A. Yes; if the law allowed it so he could serve in any other capacity.

Q. Did he say that? A. No, that is from his sister.

The Court: Have you any letters asking to serve in any other capacity? All your letters were for non-combatant service?

The Witness: No, your Honor. I suggested it was noncombatant service. Always, since the President's ruling I merely referred them to the ruling as a matter of fact.

Q. I thought you were not writing those; Mr. Rutherford wrote them since he got back? A. I got

two. I did not answer them. I sent a copy of the law, that is all.

Q. You said this letter was not sent by the man himself, his sister wrote it? A. I think so.

Q. And she wanted to know how to get her brother out of the army?

The Court: Let him read it. Any answer to that?

A. It is marked here "card." In that case there would not be any carbon to it. I told her I could not give any information.

2426

The Court: Where is the copy?

The Witness: There is no copy of the card. I merely told her I had not found out anything, couldn't give any suggestion.

Q. Who made those red marks on there? A. Those are my marks.

Q. You made them? A. Yes, in passing through a pile of letters I could pick up the general thought quicker.

Q. You read this first and marked it? A. Yes.

Q. Then you forwarded it to Mr. Rutherford for information? A. I don't remember whether I forwarded it or not.

2427

Q. It is a fair inference, the red marks you put there were the important parts of the letter? A. The parts I wanted to remember.

Q. Who wrote that "J. F. R." up in the corner? A. J. F. R., that is my writing.

Q. You say you sent a card on this? A. It is marked there.

Q. Isn't the card checked out, marked out? A. That shows it has been written.

Q. Is that the date it was written? A. Yes.

Q. How could you send a card on 1/24/18 and the

2428

Fred H. Robison

date you sent it to Rutherford 1/24/18? You said he was out west? A. The card I sent her, I remember now, said I knew nothing about it, Mr. Rutherford was absent, I would forward it to him, and if he had any suggestions he would answer it, or forward it to me for answer.

Q. You never did finally answer this letter? A. No; never finally.

Q. When did you get it back? A. I don't know, it must have been February some time.

2429

Mr. Buchner: I offer in evidence the letter and attached pink sheet.

Marked Government's Exhibits 34a and 34b in evidence.

The Court: How is that helpful, there is no answer?

Mr. Buchner: It shows they were perfectly willing to answer how to get out of the army and the markings, and that he showed it to Mr. Rutherford for the purpose of dealing with military matters and showing the state of mind of both people in regard to the military forces of this country.

The Court: They didn't get any action on it?

Mr. Buchner: They tried to; it is answered.

The Court: The answer is he didn't know. I will exclude it. Do you wish to have it excluded?

Mr. Sparks: We object to it.

RE-DIRECT EXAMINATION by Mr. Sparks:

Q. When you used the word "decoy," you meant that did you, that people would apply to your society for membership in order to claim they were mem-

2430

bers, and you were trying to avoid any such cases as that? A. Yes.

Q. That is what you meant when you used the word "decoy" letter? A. Yes.

Q. Some person, not legitimately a believer in your doctrine, would try to join your association, and having joined it make a claim for deferred classification on the ground they were a member of the society? A. Yes.

Q. And they would send in a dollar bill, and in all cases where you thought that was so, you told them they could not join, that you had nothing to join? 2432
A. Yes.

Q. You say there are certain steps that one must take to become a member of the International Bible Students' Association. Are those steps freely set forth in the sixth volume? A. Yes, all very clearly explained in the sixth chapter, under the chapter, "Order and Discipline of the New Creation."

Q. Can you state where they are more fully set forth in the sixth volume? A. I cannot state the pages now, except that the third, fourth, fifth and sixth chapters, as I recall it, cover these grounds quite thoroughly.

Q. Can you tell us what those chapters state in reference to that? A. The substance is that an individual must recognize himself to be a sinner, imperfect. He must recognize the Lord Jesus Christ to be his Savior from sin, to have offered Himself as a sacrifice, the benefit of which he may obtain through faith, and that then he must further give his heart, his whole heart, to God. All that he is, has or hopes to be, of an earthly nature, and God gives him certain promises of a heavenly kind in return for this. He makes this full consecration. He symbolizes this consecration in the presence of witnesses as indicative of his complete submergence of will unto the will of 2433

God, and that to become a member of the International Bible Students' Association means that he is studying the Bible in the light of and with the help of the Bible publications which the society issues. He has a definite creed, which is the Bible as construed by and expounded by Pastor Russell in his writings, and as he comes to understand these things more and more fully, he associates himself if he is in a vicinity where others of like faith are, with them, and they constitute a church or ecclesia. Thus he becomes a member of that church or ecclesia which is for convenience sake called the International Bible Students' Association.

2435

Q. After he has joined a class is there a water baptism? A. Yes; before the other believers he symbolizes his consecration, acknowledges his relationship before them by water immersion, and not until he has manifested depth of interest and taken the symbolic step is he recognized as a member of the association, though he may be an attendant, and would be welcomed as an attendant, he would not be recognized, could not be chosen to the office of a deacon or an elder. He couldn't become an ordained minister of the society.

2436

Q. You say he couldn't become an ordained minister of the society? A. No; he could not.

By Mr. Fuller:

Q. I show you Exhibit 19, written on the date of February 12th, and ask you if you will read the advice you have given there. A. "So far as the President has not defined noncombatant service, and such service under that name which is being performed in camp is volunteered by those engaged in it, it is not necessary to volunteer for such service, and usually advise against it, pending some statement on the part of the President which he may or may not make later."

Q. At the time you wrote that letter were you familiar with the section of the Selective Draft Law dealing with noncombatants? A. Yes.

Q. Was that letter written in the light of your views as to what the law had provided? A. Yes; that letter was written in the light of Rule No. 14, subdivision—

Q. Had you read the law itself, the Selective Service Law? A. Yes.

Q. Can you recall now what provision of the Selective Service was with respect to conscientious objectors? A. Yes; it was to the effect that no one could be required— 2438

Mr. Buchner: I object to him stating what the requirement of the law was. I am satisfied to have him say whether he knew it or not.

Mr. Fuller: May I read this provision of the law?

Q. Do you recall this provision: "And nothing in this act contained shall be construed to require or compel any person to serve in any of the forces herein provided for who is found to be a member of any well recognized religious sect or organization at present organized and existing, and whose existing creed or principles forbid its members to participate in war in any form and whose religious convictions are against war or participation therein, in accordance with the creed or principles of said religious organization." Do you recall that? A. Yes. 2439

Q. Do you recall this further provision: "But no person so exempted shall be exempted from service in any capacity that the President shall declare to be noncombatant"? A. Yes; I remember that quite well.

Q. Mr. Buchner yesterday afternoon asked you if, at the time this letter was written, there were two branches of service in a camp, of the military forces

2440

Fred H. Robison

brought together in pursuance of this statute, non-combatant and combatant service, and I think you answered there were two? A. Yes.

Q. Do you recall whether or not you wrote, when you wrote this letter of February 18th, you had in mind there were two such branches of service in the camp? A. No; I did not understand his question to be stated as you stated it. The facts as I understand them, and I understood them at the time of writing this, was there was no noncombatant service provided for by the rules, not officially.

2441 Q. Because the President had not acted on February 18th? A. Not until March 20, 1918.

Mr. Buchner: I don't think the counsel should testify.

The Court: I think that is all right. I have been pretty liberal with the Government on leading questions. I am sure to be as liberal with the defendants, even more so.

Mr. Buchner: I don't think he should read out of a book and ask the witness if—

The Court: I think that is all right.

2442 Q. You said in this letter: "So far as the President has not defined noncombatant service," then you went on, "and such service under that name which is being performed in camp is volunteered by those engaged in it," did you intend by that second phrase I have just read to draw a distinction between the type of non-combatant service specified in the portion of the law just read and volunteer service of noncombatant work? A. Yes; that was my intention. I understood if he volunteered in some branches of the service called noncombatant, but not under the Selective Service Act, if he volunteered, he would lose his right to noncombatant service which the President would subsequently define and has defined.

Q. You construed that as a complete exemption on this language: "This act shall not be construed to require or compel any person to serve in any of the forces"? A. Yes.

Mr. Buchner: I object. He cannot construe the law.

The Court: He may tell what he thought.

Q. You had in mind that was a complete exemption under the law? A. Yes; until the President defined noncombatant service he would have been as exempt as if he was 18 or 35 years of age.

2444

Q. And this "service that is being performed in camp is volunteered," was distinguished from being "compelled" within the statute? A. Yes.

Q. You said it is not necessary to volunteer for such service? A. Yes.

Q. Did you mean by that you referred to your conception of voluntary service? A. I understood it was not necessary for him to volunteer for those branches of service which might be called, generally speaking, noncombatant, but which could not come under that provision there unless the President should subsequently declare them to be just what he intended them to be.

2445

Q. And the reason it was not necessary for him to volunteer—

The Court: Gentlemen, here is the situation, Judge Oeland has a case in some other court that cannot be delayed. You will be back by two o'clock, Judge Oeland?

Mr. Oeland: By two o'clock.

At 11:30 A. M. a recess was taken until 2 P. M.

2446

Fred H. Robison

June 14.

(After recess.)

FREDERICK H. ROBISON, recalled, further testified:

The Court: Was there some further cross-examination of Mr. Robison?

Mr. Buchner: I believe Mr. Fuller had not completed his examination.

2447 By Mr. Fuller:

Q. You used the expression in the letter, Exhibit 19: "It is not necessary to volunteer for such service." Using that expression you were referring to the character of the service that a conscientious objector, as included within this exemption statute might perform of his own free will; is that right? A. Yes.

2448 Q. Now, you say: "We usually advise against it, pending some statement on the part of the President which he may or may not make later." Can you state why you told this correspondent that "We usually advise against such voluntary performance of such service"? A. Because in case he volunteered for some branch of the service which for convenience sake was called noncombatant, he would waive his rights to take up that noncombatant service which the President would define by his arrangement later on, which I thought would be daily—expected daily.

Q. Waive the exemption conferred upon him by this statute? A. Yes, sir.

By the Court:

Q. In addition to that you were of the opinion that it was wrong for a soldier boy to do anything in the war, that is one of your consecrated associates,

that it was wrong, sinful for him to do anything in warfare? A. Not in the noncombatant service.

Q. Isn't that your belief? A. No, sir.

Q. You thought war was wrong and everything connected with war was wrong? A. That statement that war was wrong was Mr. Holmes' statement.

Q. Isn't that your belief, too? A. No, sir.

Q. Then there is a difference in your beliefs, too? A. I think not, your Honor.

By Mr. Fuller:

Q. In the exhibit marked Exhibit 20b you referred to your correspondent's letter of January 28, and then say to him under date of February 14, answer: "Since that particular noncombatant service which the law speaks of as being given to conscientious objectors has not been defined by President Wilson, we suggest that any decision on that point be held off until he does make such definition. Such noncombatant service as is now available in camp is usually voluntary and under the circumstances we rather advise that it be declined." Why did you say that "under the circumstances we rather advise that it be declined"? A. The circumstances there that I referred to were the fact that the President had not yet defined it and that until he did define it, that it would be better for his general interest to wait until he defined it and then he could have the advantage of what provision the President expected to make. 2450

Q. That is the advantage of this exemption in the statute? A. Yes, sir. 2451

Q. And you had in mind that if he assumed a certain type of service which subsequently was not defined as noncombatant service by the President, that it might be regarded as a waiver of this statutory exemption? A. Yes, sir; that is what I thought.

2452

Fred H. Robison

Q. In answer to a question put in court the other day with respect to, I think, Exhibit 19, perhaps it was with respect to Exhibit 20b, in the first of which you said that "we usually advise against it," namely volunteering for such service—that appears in Exhibit 19, and in the other of which, Exhibit 20b, you stated that "under the circumstances we rather advise that it be declined," that is to say, such noncombatant service as is now available in camp. Now, in answer to a question by the Court the other day, you said that you could not imagine any letter that you could have written to that correspondent that would more effectually—I am giving my recollection of your answer there—have prevented his use in the draft—his service—than that answer. Did you have in mind at the time you wrote either of these letters any thought whatever that the correspondent to whom the letter was being written came within the draft law—

2453

Objected to.

The Court: Let him finish the question.

By Mr. Fuller:

Q. (Continuing.) In the extent of authorizing anybody or requiring him to perform any service whatever?

2454

Mr. Buchner: I object to it as predicated upon a misstatement of the testimony. That is not what was testified to. This is re-direct examination.

The Court: I think he may answer that.

A. No.

Q. Did you have in mind the thought that if he followed the suggested advice in that letter that the conduct of your correspondent would be any impeding of the work carried out pursuant to the Draft

Act at all? A. No; I had not thought that that was an impeding of the draft work.

Q. It was your thought that because of this exemption he didn't come within the Draft Act? A. Yes, just the same as if he had been over or under the age.

By the Court:

Q. You knew then that he was in the service—in the camp? A. I don't remember of such an instance.

Q. Isn't that part of your letter directed to—wasn't he in the camp? A. I think none of those were.

2456

By Mr. Fuller:

Q. He had been refused his classification? A. By the local board and was waiting for the district board, if I remember that letter.

Q. Exhibit 20b contains this statement: I am of draft age, but the local board of my county exempted me from the fighting part because of my being a member of the I. B. S. A., but they did not exempt me from the noncombatant part." Did you have in mind that the person had been exempted in accordance with the provisions of Section 4 of the Selective Service Act or until noncombatant service was defined by the President, came within the terms of the law? A. Yes, sir; that is what I had in mind. I understand that he was subject to registration and classification, but not to the call.

2457

Q. Not to assignment to service? A. Not to assignment to duty particularly.

Q. Till that noncombatant service had been designated? A. Yes, sir.

By the Court:

Q. You knew a good many were being called? A. I knew they were being called.

Q. You set yourself up to decide that question yourself without regard to the military authorities and in the face of their decision? A. Some of them; yes, sir.

Q. That is the responsibility you took? A. Yes, sir.

Q. You advised that man just what you intended to advise him—no mistake about the advice you gave him? A. No. Some of the board advised it one way and some another, so far as the sending to camp was concerned.

Q. So you made the military authorities' actions of no effect, subject to your revision if the folks that you advised followed your advice? A. Building it on my understanding of the law.

By Mr. Fuller:

Q. What do you mean by your understanding of the law with respect to the power you understood the military authorities had under Section 4?

The Court: How is his understanding of the law material?

Mr. Fuller: On the question of intent.

The Court: No; he is bound by the law, and if he undertakes to construe it and if he construes it inaccurately, he is bound just the same.

Mr. Fuller: My contention is that he construed it accurately.

The Court: I will charge the jury he construed it erroneously.

Mr. Fuller: When we are dealing with his

intent I want to get it as clearly as I can, the question of his intent.

2461

The Court: The theory of your rule as to intention is altogether misleading. We have heard quite a good deal as to the intent required, going so far as to enunciate that if he were ignorant of the law that would excuse him. I am a little fearful that we are likely yet, some of us, to become misled if we linger too long on this question of intention. I have not the slightest doubt but what if a person does what he intends to do and then deliberately says there is a mistake in fact about it, he is acting on his peril if he didn't know the law. That wouldn't help him any, or excuse it. It is a subject on which there is very much disagreement in the books, as to what constitutes criminal intent. The case you referred to the other day I remember using and my recollection is that it was overruled by your Court of Appeals.

2462

Mr. Fuller: The portion of the case I was reading to your Honor was a quotation from a case in the Court of Appeals which was overruled in the case that I was citing, and my construction of the case was that it was authority for the proposition that I was standing for then—that the case which was cited would be, perhaps, authority for the proposition I was standing for—

2463

The Court: Hasn't the case you refer to been overruled?

Mr. Fuller: People against Flack was the case. Not to my knowledge.

Mr. Sparks: In fact we have run that case down in our digest which brings the citation down to date, and I understand that it has not

2464

been overruled by any decision which your Honor would interpret, by reference to it, that it is not good law any more.

The Court: The later cases are in conflict with the doctrine there now.

Mr. Sparks: In the Court of Appeals?

The Court: Yes.

Mr. Sparks: I don't see how we could have missed any such case, because the digest we are referring to deals solely with Court of Appeals cases.

The Court: You have no knowledge of any opinion overruling that case?

2465

Mr. Sparks: None whatever.

The Court: That would not apply here in any event, because these acts would not be said to be harmless in themselves. That case is a very extraordinary case and if it has not been overruled I am misinformed. My opinion is it had been but it would not be the rule in this case in any event. I shall hold here that ignorance of the law does not excuse any of these defendants. You may take exception to that, of course, and save your rights. If this man construed the law and construed it erroneously, that would not excuse him. He was not a lawyer. The association, it seems to me, was going out of their way to advise all these folks—sort of running a campaign in behalf of the so-called conscientious objectors. I will allow the witness to testify to what his intention was, but anything that bears upon the fact that he did not know the law I shall be obliged to exclude. You may proceed. You may take an exception if you desire as to the ruling of the Court as to the ignorance of the law.

2466

Mr. Fuller: Your Honor will allow an exception at this time to that?

The Court: Yes.

Mr. Fuller: Exception to all the defendants.

By Mr. Fuller:

Q. In answer to this question by the Court the other day, you gave this answer: "Q. Do you understand there is anything more you could have told them—you told them not to do anything? Was there anything more you could do to hinder the War Department? A. Not that I know of." Did you understand when you were writing the letter in respect to which this question was asked that what you were doing in writing that letter, the course of conduct advised or the suggestion made in your letter was, in fact, hindering the War Department in any degree? A. No, I thought not. I didn't understand the full import of his Honor's question.

2468

By the Court:

Q. What was there about that you did not understand? You told this man not to do anything. You knew that he was a soldier boy. You knew that the purpose of a soldier boy was to shoot the enemy and you told him not to do anything. What was there about that question that you did not understand? A. I did not understand that he was a soldier, your Honor.

2469

By Mr. Fuller:

Q. Did you understand that he was selected, designated? A. Classified.

By the Court:

Q. As a soldier boy he was liable to be called upon

2470

Fred H. Robison

and you told him not to do anything? A. Classified but I understand that he was not under military orders until such time as the President would designate non-combatant service. The word "more" is what I don't feel like concurring in just now, because I didn't feel that I had done anything and I didn't feel that I could have done more—

2471 Q. You told this young man who was then a part of the military forces of the United States, not to do anything whatever. What more could you suggest to him to do or render him any more useless in the War Department of the army? A. Well—

Q. If all soldiers refused to do anything, the army would be absolutely helpless? A. Yes.

Q. That would be so as a whole army. Now, you told him when he was going into the army not to do anything. If you can think of anything more you could have advised him, which, if he had followed your advice would have made him any more useless, I wish you would tell this jury what it is? A. I didn't look upon him as a soldier—

Q. What else? A. I could have—

2472 Q. If you didn't look upon him as a soldier you knew he wouldn't have to do anything until he became a soldier, so his inquiry and your answer would be absolutely meaningless? A. I don't see as it would, your Honor. I could have told him to do something positive.

The Court: The District Attorney may question upon that.

By Mr. Fuller:

Q. You said: "Such noncombatant service as is now available in camp is usually voluntary, and under

the circumstances, we rather advise that it be declined." Did you understand that you were then advising that correspondent not to do anything? A. It was not my purpose.

Q. Simply not to volunteer for a form of service that had not yet been specified by the President? A. Yes, sir.

Q. And because he came within that class with respect to which no one could require combatant service from him? A. That was my thought.

Q. Until his service was defined—until the designation of noncombatant service by the President? A. Yes. In two or three instances I remember, when individuals were in camp writing to ask whether it would be better to do something around the camp. I said make yourself useful until the acceptance of the general class of service in which you are expected to be—until the President says what it shall be.

2474

Q. You were only advising him to avoid waiving the exemption that you understood the law gave him? A. Yes, sir; that was my purpose.

Q. And your advice did not intend to extend any further than that? A. No.

2475

By Mr. Sparks:

Q. "The New Creation" is the sixth volume, is it? A. Yes, sir.

Q. In reference to your creed I read you from page 594: "Are not we subjects of the Great King? And are not all the kingdoms of this world more or less identified with 'Prince of this World' and his law of selfishness? Are not we, therefore, strangers and pilgrims here, and to some extent aliens and foreigners? It is eminently proper that we should love and appreciate every good law and all the servants of earthly laws, and rejoice that quite the majority of the 'New

Creation' live under the highest forms of civil government to be found in the world today, and appreciate this as a divine favor and blessing. Hence, we neither traduce our native country, its rulers, or its laws; but this does not mean that we must fight for these with carnal weapons, nor that we must increase our responsibilities by voting for them." Do you recognize that as part of the creed of the International Bible Students' Association as promulgated by Pastor Russell? A. Yes, sir.

2477 Q. That has been printed for how many years? A. I believe that was issued in 1905.

Q. And also: "True, government may not always exempt those opposed to war from participating in it, although a very gracious provision of this kind has in the past been made for some who, like ourselves, believe war to be unrighteous, viz: the Friends or Quakers, exempted from military duty under specially generous laws." Do you recognize that? A. Yes, sir.

2478 Q. I read this: "We may be required to do military service whether we vote or not, however; and if required we would be obliged to obey the powers that be, and should consider that the Lord's providence had permitted the conscription and that he was able to overrule it to the good of ourselves or others." Now, then, the Court asked you whether there was any definition in reference to whether you could take noncombatant service or not. I call your attention to this paragraph: "In such event we would consider it not amiss to make a partial explanation to the proper officers and to request a transference to the medical or hospital department, where our services could be used with the full consent of our consciences." Did you so recognize and is that what you had in mind when you answered the Court in answer to its question that there were some differences or disagreement

in the society in reference to noncombatant service?

A. That is the sentiment I had in mind there.

Q. That is the recognized sentiment in the society?

A. Yes, sir.

Q. That was what you were advising these various people whose letters have been put in evidence, to wait until the President had defined the combatant service that your members could take, in accordance with your doctrine as I have just read it to you? A. Yes, sir; defined noncombatant service.

RE-CROSS EXAMINATION by Mr. Buchner: 2480

Q. Why didn't you tell your members the society had already defined the medical department and the other department as a place where they could perform noncombatant service? A. They all knew it.

Q. Who knew it? A. Everyone who was a member of the society.

Q. Did you make any reference in any of these letters you have seen to volume six, this page? A. I made a reference to the general passage there.

Q. Where? A. Two or three times.

Q. In any of these letters that you have seen here this morning? A. No, I don't believe in any of those. 2481

Q. Why didn't you put it in those? A. They all knew it.

Q. How do you know they knew it? A. They have the books. They were members of the association studying these books for years, especially the sixth volume.

Q. They all knew the Selective Service Law, too, didn't they? A. I don't know as to that.

Q. They knew they were under it? A. Some of them.

Q. They all wrote and told you that, didn't they? A. Those that said that; yes, sir.

Q. And they knew they had been classified and yet you gave them your interpretation of the law?

A. Yes, sir.

Q. They asked you for your interpretation of the law as applied to them? A. Yes, sir.

Q. Why didn't you give them this interpretation of Pastor Russell, if you thought it was right? A. They all knew it.

Q. How do you know they knew it? A. They had been studying this volume for years.

2483 Q. Is there a single one of these men that says he has read volume six? A. If he is a member of the association, he has eight volumes and been studying them right along in class.

Q. How do you know that they were members of the association? A. They expressed themselves in terms which satisfied me that they were; been subscribers for journals, some—

Q. To be a member of your association must a man have read every one of these volumes in Scripture study? A. It is understood that before he was in good standing as a full member, he would have to understand or had studied the various volumes.

2484 Q. Must he have read every volume to be a member of the association? A. I could not say that absolutely.

Q. Must he or must he not; you know, yes or no? A. Yes, to be a full member, he must.

Q. Now, to be a full member he must have read the seventh volume? A. That is my understanding.

Q. And yet you yourself, who were advising him on doctrinal questions, did not finish the seventh volume until this year, and last year you were answering the questions; is that right? A. I was reading it as best I could—

Q. You were answering these doctrinal questions

last December? A. I think I answered some in December.

Q. And you said you hadn't finished this book until sometime in 1918; is that right? A. Yes, sir.

Q. And to be a full member you must have finished the seventh volume, must you not? A. As soon as reasonably possible—enough time to read it. This contains no new doctrine. Explanation of Revelation or Ezekial.

Q. Before you went around talking on doctrinal questions, didn't you think it fair to the men who were writing to you to finish the book you were going to write to them about? A. If they had asked me on the seventh volume I would read that part. These questions were not on the seventh volume. They were on various passages of the Scriptures.

2486

By the Court:

Q. Don't two of them mention the seventh volume—most of them on the Draft Law? A. Those were incidental, your Honor.

By Mr. Buchner:

Q. Don't two of them mention the seventh volume? A. One of them.

2487

Q. Did not you read the volume to find out what he had gotten from it? A. I did not know what he had reference to.

Q. Neither did you, in answering it, cite any page of any volume? A. No.

Q. Your answers were even more vague— A. My interpretation of the Scriptures. If it were treating of anything in the foregoing six volumes or the seventh volume—anything that I knew about, all we would have to do was to look up the scriptural passage and see what it said. There were scriptural references in the book, in each of these volumes. Very

easy to refer to, so I could see where the particular passage was treated. If it was not treated there specifically, I gave him my best understanding of what it would be—

Q. You know that is not an answer to what I asked you. A. I have forgotten the question if I didn't answer.

Q. Will you tell us now if you had any reason for not referring to the sixth volume specifically in these answers as to what was noncombatant service? A. No; I had not, no reason.

2488 Q. You didn't do it? A. I am not sure that I didn't. I think I did two or three times.

Q. Will you swear now that you did?

The Court: I think the question is improper, because the witness is under oath and he is swearing to everything.

Mr. Buchner: Very well; I will withdraw that.

Q. You knew all about the Selective Service Act when you were answering these questions? I knew about those parts, specifically.

2490 The Court: I hardly think it is necessary for the Government to spend any more time on this letter. I have indicated to the defendant that it is immaterial.

By Mr. Buchner:

Q. You attempted to make an explanation of something you had said in answer to his Honor's question, said that the word "more" was the word you didn't want to leave in—

The Court: Mr. District Attorney, you may ask him if he was afraid the soldier boys were going to waive any rights and that was the reason they should decline the service.

By Mr. Buchner:

Q. Will you tell us, Mr. Robison, why you didn't say to these men not to take this service for fear they would have waived any rights they had under the Selective Service Act? A. I didn't think it was necessary. I told them to wait until the President acted and then find out what he did.

Q. You didn't think it necessary to tell them you were afraid they would waive their rights? A. No, I didn't go into the details.

Q. Was that in your mind, that they might waive? A. Yes, sir, certainly. 2492

Q. That was the reason you were telling them not to do this? A. Certainly.

Q. Didn't you think it was fair to a man to whom you were giving advice to tell him why you did it? A. It may have been better.

Q. Don't you think it would have been fair? A. It would be fair, yes, sir.

Q. Didn't you think then that you were misleading them? A. I don't see how I could.

Q. You were giving them the fair advice? A. To wait, yes, sir.

Q. You never told any of them they might waive a right in this letter? A. No, I don't think I did. 2493

Q. You said before that you didn't understand that these men were soldiers to whom you were giving this advice? A. Yes, sir.

Q. Yet when you were asked this question: "Were those men soldier boys you told not to do anything until the President defined non-combatant service and you answered yes, sir"—that is right?

Mr. Sparks: I object to that. That is a question by the Court.

The Court: Yes. I hardly think that is admissible.

By Mr. Buchner:

Q. Did the issue of the seventh volume take any force or effect out of the previous six? A. No.

Q. They still remain the principles of your organization? A. Yes, sir.

Q. And that statement that has been read to you from volume six in regard to what was non-combatant service and what could be expected by your members was still one of the principles of your association? A. Yes, sir.

2495 Q. Then why didn't you give advice that they might accept that rule of non-combatant service instead of not doing anything? A. They might accept that kind of service.

Q. Why didn't you tell them that? A. I told them to wait until the President defined it.

By the Court:

Q. Why did you wait until the President defined it if it was all right? A. I wanted to give any provision the President would make for them.

2496 The Court: Ask him if the real reason was not that he wanted to hinder and interfere with the getting of the army.

By Mr. Buchner:

Q. Wasn't your real reason the fact that you intended to hinder the enforcement of the Selective Service Act and the building up of our army? A. No, sir, no object in doing that.

Q. Were you not willing to do as much as you could to hinder them? A. No, sir.

Q. If you were willing to put it on the members of your association why didn't you call them your members and tell these men how far they could go? A. They all knew that.

Q. As matter of fact your holding out until the President's proclamation was signed was simply that it might give them all the benefit of this law—that you might get all the benefit of this law for your men without doing any of their duty under the act? A. No, certainly not. Had no duty under the act until such time as the President defined—

Q. As to that, you thought that the act then was stronger than the sixth volume? A. No.

Q. Your sixth volume told you what to do when you were consecrated, didn't it? A. It told them that they could do this, didn't say that they should or what other arrangements was made. Simply assistance in a very general way. 2498

Q. It was general assistance? A. In the sixth volume, yes.

Q. Didn't mean anything? A. It meant something, certainly.

Q. What each man who was a consecrated Christian could do? A. Could do, not what he must do.

Q. Didn't all these men ask you what can a consecrated Christian do? A. Yes.

Q. And you knew the answer? A. Yes, sir.

Q. The answer was in this volume? A. Yes, sir.

Q. And you never told it to one of them? A. To wait until the time— 2499

Q. You never told that answer to one of them, did you? A. I think I did.

By the Court:

Q. To whom? A. I don't remember that, your Honor.

By Mr. Buchner:

Q. When? A. It must have been in January or February when I was handling this mail.

2500

Fred H. Robison

By the Court:

Q. Did you write it in a letter? A. Certainly.

By Mr. Buchner:

Q. Do you remember the name and date specifically when you gave that advice to anybody in a letter?

A. No, I don't remember the date.

Q. Or the name of the party? A. No, I do not.

The Court: Mr. District Attorney, if you desire to do so you may ask him if he has done anything to aid the nation in the war. If you care to, I will allow you to ask that.

Mr. Sparks: I object to that.

The Court: Objection overruled.

2501

By Mr. Buchner:

Q. Have you yourself done anything to aid this country in the prosecution of this war?

Mr. Sparks: I object to that as an improper question.

The Court: Admitted.

Defendant excepts.

2502

A. Yes, sir.

Q. What? A. Last summer in Cleveland I took a course which was suggested by the Department of Interior to the Cleveland Chamber of Commerce for the Americanization movement in Cleveland to teach English and American principles to foreigners. I took that course and expected to be teaching it in Cleveland in night school last winter when I came here.

Q. But you did not do any teaching? A. I did not do any teaching.

Q. You just took the benefit of the course? A. It was not much benefit. It was six week's time and \$100 cost to me.

By the Court:

Q. Who were you to teach or enlighten upon our institutions, soldier boys? A. To a certain extent, yes, sir.

Q. Soldier boys? A. Yes, sir, there were some soldiers in there. It was intended primarily for—

Q. Everybody, whether soldier boys or not? A. For those who expected to become American citizens.

The Court: Ask him if he has done anything to aid the Red Cross or the Y. M. C. A. or bought any Liberty Bonds, if you care to.

2504

By Mr. Buchner:

Q. Have you done anything yourself to help this country in the war? A. I am a member of the Red Cross and have been for several years.

The Court: That is not necessarily a war organization—

By Mr. Buchner:

Q. You joined it when? A. Three or four years ago.

Q. Just renewed your annual subscription as a member? A. Yes, sir.

2505

Q. When did you last renew it? A. About five or six weeks ago.

Q. That was after you were indicted? A. I don't remember when it ran out.

Q. Five or six weeks ago was after this indictment? A. Yes, sir.

Q. It was after this indictment that you renewed it?

Mr. Sparks: I object to that as an unfair question.

The Court: No, they are not unfair ques-

2506

Fred H. Robison

tions. They are eminently fair. He has said he is not opposed to war.

Mr. Sparks: Exception.

By Mr. Buchner:

Q. What chapter of the Red Cross do you belong to? A. Detroit.

Q. Did you pay it by check from here? A. No, I sent a dollar.

Q. You mailed it to them? A. Yes, sir.

Q. In Detroit? A. Yes, sir.

2507 Q. Have you done anything for the Government itself—have you purchased any Liberty Bonds? A. I purchased one, yes, sir.

Q. When? A. About the first of May, I believe it was.

Q. This year? A. Yes, sir.

Q. That was after De Cecca was arrested? A. I don't know.

Mr. Sparks: How is that material?

The Court: That is material.

Mr. Sparks: Exception.

The Witness: I don't know.

2508 Q. Don't know when De Cecca was arrested? A. No.

The Court: Find out from whom he purchased it.

By Mr. Buchner:

Q. Where did you buy it? A. A bank over here, I have forgotten the name—can tell you in a minute. The Brooklyn Savings Bank.

Q. Do you know from whom—what issue of bonds is it? A. It is the third issue.

By Mr. Sparks:

Q. Have you got it there? A. Yes, sir. The third issue.

Mr. Sparks: May it appear upon the record that he produces the bond in open court?

The Court: Certainly.

By Mr. Buchner:

Q. Do you know the name of the man that sold it to you? A. No, I don't.

Mr. Sparks: I don't see how it is material who sold it to him.

The Court: Yes, it might be considerable.

2510

By Mr. Buchner:

Q. Did you buy it in the bank yourself? A. Yes, sir, I bought that.

Q. From one of the men in the cage or from some solicitor for the loan? A. That I don't know. One of the men came up and bought it for me. Didn't come up myself. One of the men in the office came up and bought it.

Q. You didn't come up and buy it yourself? A. No.

2511

Q. Who came up from the office and bought it? A. I think it was Mr. Martin.

Q. Is he the man that gave it to you? A. I think so.

Q. That is the extent to which you helped this country—

By the Court:

Q. Don't you know for sure? A. I think—I have forgotten whether Mr. Martin or MacMillan.

2512

Fred H. Robison

By Mr. Buchner:

Q. You are sure it was one or the other of those gentlemen? A. Yes, sir, I am sure.

Q. Can't tell us now which one? A. No.

Q. When did he give it to you? A. The same day as it was bought, about the first of May.

By the Court:

Q. Did you give him the money to go and buy it? A. Yes, sir.

2513 By Mr. Buchner:

Q. To which one did you give the money? A. McMillan, I believe.

Q. Do you know? A. Yes, sir, McMillan.

Q. Now, do you know who gave you the bond? A. I am not sure which one it was. One of the two.

Q. That is all you have done to help the country in the war? A. That is all I could do.

By Mr. Sparks:

Q. You mean by that, Mr. Robison, that out of the \$15 a month that you get for your services in this work you were only able to subscribe for one bond,
2514 is that what you mean? A. That is correct.

Q. That is a fifty dollar bond, is it? A. Yes, sir.

Q. Out of 15 a month you saved sufficient to buy a \$50 bond? A. Yes, sir.

Q. And you have to use that \$15 a month to pay your laundry and pay your carfare and you incidental expenses? A. Yes, sir.

Q. And clothe yourself, too? A. Yes, sir.

By Mr. Buchner:

Q. You got considerably more than \$15 a month prior to December 20th, 1917, when you were working for a worldly employer, didn't you? A. Yes, sir.

By Mr. Sparks:

Q. And you gave up that greater advantage so far as worldly compensation goes to accept this religious work? A. Yes, sir, and my work in Cleveland was to pay some previous debts, which I had, so I had no capital left over, except pocket money.

Q. As soon as you accumulated enough money from your wordly employment to pay your debts you went back into the religious work? A. That is correct.

2516

ALEXANDER H. McMILLAN, being called and duly sworn as a witness in his own behalf, testified as follows:

Direct-examination by Mr. Sparks:

Q. How old are you? A. Born in 1877.

Q. Where were you born? A. Nova Scotia.

Q. What parentage? A. Highland Scotch.

Q. When did you come to this country? A. May, 1895, I believe.

Q. What early education did you have? A. Common school education until I was about sixteen and one year in the academy. Later on in night school work.

2517

Q. Prior to that time did you have any religious education? A. Yes, sir; that which I received at home.

Q. What business have you been in? A. I worked in a commission house in Boston for a while after coming to this country—came on account of inability to continue in school owing to ill health. At that time in 1900, I believe it was, I became interested in Pastor Russell's writing and entered the colporteur work in 1901, I think, selling Scripture study. Continued

in that until 1908 at which time I entered what we call the Pilgrim service, traveling, lecturing as preachers of the Methodist Church did years ago.

Q. From 1901, you say, down to the present time, you have been engaged in this work? A. 1900; yes, sir.

Q. Receiving what compensation, if any? A. While I was in the colporteur service I supported myself partly from the sales of the books and partly from private funds. After entering the traveling service, the Pilgrim work, I received my clothing and traveling expenses only.

2519

Q. How old were you when you entered into this service? A. I was born in 1877 and entered it in 1900.

Q. Twenty-three? A. I guess that is it; yes, sir.

Q. You continued in the Pilgrim service how long? A. Until August, 1916, with one—two, interruptions, that is when I spent one summer on the farm and another occasion I was in Texas for a while with a railroad company. Aside from those I continued until August, 1916.

Q. And then at the request of Pastor Russell you came to Brooklyn to work at the Bethel Home? A.

2520 Yes, sir.

Q. Pastor Russell died the 31st of January, 1916? A. No; the 31st of October, 1916.

Q. From that time down to the present time you have been working for the society? A. I have been connected with the work of headquarters, but I have not been there all the time.

Q. Starting in January, 1917, will you tell the Court and jury what your employment has been, and where? A. January, 1917, I was working, I had a desk in the office at 17 Hicks Street and had a good deal to do in both places, the Bethel Home, Columbia Heights,

and at Hicks Street. I went back and forth a good deal between the two places.

Q. What was the nature of your work? A. Well, I had kind of general charge at Columbia Heights, looking after the home; we have a home there, about 100 rooms, and at that time I believe perhaps 100 people living there, and there was a good deal of work in connection with the house and its arrangements and the work there required a good deal of attention, and I spent considerable time at that. In the office I had to do with assigning the different workers to their work and seeing that they were doing the work, that they were best adopted to and they enjoyed the most, in order to facilitate matters and make it agreeable for them, if possible.

Q. From January first down to, you say, July, were you there or were you on the road doing road work?

A. I wasn't on the road very much from January to July. I was around headquarters most of the time. Beginning in August I was away for a portion of the month. I don't just remember now how much of that time. Perhaps two or three weeks. In September I made a trip traveling to the west, as far as Kansas City and part of Nebraska, attending conventions we had. I did the same thing in October, and in November went as far west as Minneapolis. December, likewise, I made a trip to Alabama, North Carolina and several other portions of the country, and the first of January or early in December I made another trip South to Florida to attend a convention there, and through Texas and through California, and did not return to headquarters until, I believe, i March.

Q. So that from about the first of August, 191 down to sometime in March, 1918, you have been traveling practically all the time? A. Traveling considerable of the time. Had very little to do at headquarters.

Q. So we will deal with the period from January, 1917, down to the time you left in August, 1917. Most of that time was engaged in work at the Bethel Home in this general layout of work at the Hicks Street Tabernacle? A. Yes, sir; that is correct.

Q. None of your work was clerical in any sense?

A. No, not very much clerical work. Occasionally I used to dictate some letters to assist the clerks at the head of the Pilgrim department whom I was acquainted with and had worked in for a while. Aside from that I had very little clerical work to do.

2525 Q. The Pilgrim department is sending out the preachers? A. Yes, sir.

Q. And that didn't require any clerical work, simply the question of the assignment of men at different places where they would lecture? A. That was about all I had to do with it, that is, in looking up their schedule; we have an official railroad guide and we spent a good deal of time looking this up, as our preachers spoke every day of the week at a different town, continuously traveling, and we arranged their schedule in order to be able to do the traveling in the forenoon, perhaps thirty, forty, fifty or a hundred miles—they met in the afternoon or evening and I spent a good deal of time in this connection, in looking up the railroad guides to assist the clerk in that department.

2526 Q. Now, from the early part of December, 1916, down to July 17, 1917, did you know anything about the seventh volume being in preparation? A. No, I did not.

Q. Had nothing to do with it personally? A. Not a thing.

Q. Didn't know it was being prepared? A. No.

Q. And of course you had read no part of the manuscript, as manuscript? A. No.

Q. Had any person ever consulted you in reference to getting out the seventh volume? A. No, sir.

Q. And you knew that as a fact when it was an accomplished fact? A. On the 6th of June I believe it was I learned first about the existence of the manuscript, before it was put in print.

Q. How did you come to learn of the manuscript on the 6th of June? A. Mr. Rutherford called me from the Hicks Street office where I was at the time, in the afternoon, I believe it was June 6th, called me to come to his office. I came up and there was a stack of paper on the floor, probably six inches deep, and he said that there was the manuscript for the seventh volume. I was somewhat surprised.

2528

Q. Up to that time had you ever heard it suggested that it was in contemplation or being printed or published? A. Not as the seventh volume. I had heard there was a prospect of the book being gotten out to contain the biography of Pastor Russell, perhaps some choice sermons in it and some explanations of various parts of the Bible, but I did not expect a book of this nature at that time.

Q. Was that the first you knew of the existence of the manuscript, on the 6th of June, 1917? A. Yes, sir.

2529

Q. Will you proceed with the conversation with Mr. Rutherford when he called your attention to the manuscript? A. He asked me if I would like to read the manuscript; I said no, I did not care to do so. It was very voluminous and I am a slow reader, and I did not care to attempt it. Then he asked me if I would like to read the preface. I said I would. I read the preface at that time. It was in typewritten form. He asked me about the advisability of publishing the book. We had been expecting that book for years. When Pastor Russell died we were at sea as to how the book would be gotten out, but never-

theless satisfied it would at some time, in some way, come, and this manuscript here appealed to me very much if it were the seventh volume. I asked Mr. Rutherford if he had read it over and he said he had. I asked him if he thought it was all right, if it was an explanation of these books, and he said he thought it was first rate. He asked me what I thought of publishing it and I said if the manuscript is good and explains those books, why certainly it should be published. That was about the extent of our conversation.

2531 Q. So that you did not know anything of the contents of the book until it came out? A. No, I did not.

Q. You had no conversation with Mr. Fisher or with Mr. Woodworth in reference to it? A. None whatever.

Q. Or any of the other defendants in this case? A. None whatever.

Q. Have you read the indictment here? A. A portion of it.

Q. Did you read or have read to you the exhibits attached to it? A. I have heard them read in the court room here.

2532 Q. Prior to their being read in court were you familiar with any of those exhibits? A. There was one that I saw in the "Watch Tower," I believe.

Q. What one was that? A. One of those Italian letters, I don't know which one it was; I got them mixed up. I didn't catch those names to remember them very well. The one that was published in the "Watch Tower." It was the only one that I had read.

Q. That is the Cuminetti letter? A. I guess that is the one, and I heard the other one read, that is the one from someone in Jersey, I believe.

Q. That is the letter from some man in camp, de-

scribing his treatment by one of the officers? A. That is the one, yes, sir. I heard that one read.

Q. At the time it was read was any action taken in reference to it by any person, as to publishing it or sending notice of it around the country, or anything of that kind? A. No. We have a custom in the Bethel that if any item of interest of striking nature occur, why, they are read at the table during the meal hour and that was the place I heard this letter read.

Q. And aside from those two letters that you have indicated in the way that you heard of them, did you ever hear any of the other letters attached to the indictment? A. I did not. 2534

Q. Did you know that they were being circulated or published? A. I did not.

Q. Do you recall this "Bible Students' Monthly," in which the Jack London letter was reprinted, "The Good Soldier of Christ"? A. I do not remember of having read that in that "Bible Students' Monthly."

Q. You had nothing to do with the preparation of this monthly? A. Nothing at all.

Q. And had nothing to do with that department of the work, or the distribution of the "Bible Students' Monthly"? A. No. 2535

Mr. Sparks: With the permission of the Court I will read this at this time. The extract which was read to the jury was only a part of this article, so I will read the whole thing. It is headed, "The Good Soldier of Christ."

(Paper read to jury.)

Mr. Sparks: Then this is the part that they have read so much. Just a part of this article which went before it.

(Read to the jury.)

By Mr. Sparks:

Q. Mr. MacMillan, your signing of the checks in this work was only occasional in some other person's absence? A. I countersigned the checks.

Q. All checks? A. Not all. Mr. Martin countersigned many of them.

Q. You only countersigned them when he was not present to do that work, is that correct? A. That is only correct since the first of January.

Q. You heard Mr. Van Amburgh testify yesterday? A. Yes, sir; I did.

2537

Q. You heard him recite the transaction in reference to the giving of a \$2,500 check? A. Yes, sir.

Q. Did you personally take any part in that transaction? A. Yes, sir.

Q. Will you state just what it was? A. That occurred, I believe, on the 12th of July. About the first of July Mr. Rutherford started on a trip west, in which I believe he did not return until the 13th or 14th. Before going west I learned, I believe from himself or one of the members of the family, that a sufficient amount of money to pay the unusual expenses of the printing and publishing of the seventh volume had been received from Mr. George Butterfield of Colorado, by Mr. Rutherford; Mr. Butterfield desired to have a part in the work and sent the money to him. Mr. Rutherford went west without leaving any money with me or with anyone else that I knew of, to meet any expenses or any bills that might come in against the seventh volume. I understood this money was deposited in his name, Mr. Rutherford's name. I think it was about the 10th or 11th of July that Mr. Hudgings returned from Hammond, where the seventh volume was printed, with instructions to have Mr. Martin and Mr. Donald of the colporteur department proceed to Hammond to

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oversee the work of inailing the seventh volume to all "Watch Tower" subscribers, which was done. The proposition of providing the stamps for the cartons in which the books were to go out came up, and when Mr. Martin was to leave he said it would be no use to me to go without \$2,500 or \$3,000 to buy postage stamps for the books we are going to send, that was about thirty thousand of them, or more, they intended to send out, and the expense would be, I understood, about eleven cents a book. Mr. Martin came to me and asked me about it and I said, "I have no money to give you and I don't know where to get any money." So I said, "I will ask Mr. Van Amburgh." I stepped into his office and spoke to him about it, and he said, "I have no money to give him. There has been none left with me by Mr. Rutherford," and just as I was leaving he said, "See here, I have some blank checks here left with me by Mr. A. N. Pierson. I will fill in one of these checks and give it to Mr. Martin and let him take it with him." That was done in my presence and Mr. Martin took the check with him, understanding that it was to be given to Mr. Conkey, who was to turn it over to the Post Office Department there for stamps to put on the cartons to ship these seventh volumes out to "Watch Tower" subscribers. The matter was very clear in my mind and I could see that Mr. Van Amburgh was very badly perplexed as to know what to say about it, and made some statements that were not entirely—were contrary to the facts, which I believe he himself must appreciate, after looking into it.

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Q. So the object of giving that check had nothing to do with the concealment of the publication or sending out of the seventh volume through any other member of the association? A. None whatever.

Q. And it was just a circumstance that Mr. Rutherford was out of town and some person was going west

to see about mailing and you had no funds to turn over to him for that purpose? A. That is correct.

CROSS-EXAMINATION by Mr. Buchner:

Q. Do you mean by that the Watch Tower Bible & Tract Society did not have a bank account? A. No.

Q. They had a lot of money in it, didn't they? A. I don't know, I never saw the bank book.

Q. They had some? A. I never saw the bank book.

2543 Q. Well, you testified very glibly that Mr. Van Amburgh made a mistake as to those facts. Now, if you knew all about his bank account how is it you don't know whether he had a bank account or not?

A. I did not say I knew all about his bank account.

Q. You knew all about this fact? A. Yes, sir; I had to do with this fact.

Q. You also knew that Mr. Van Amburgh and yourself were present? A. I presume I must have known that.

Q. You knew that if Mr. Van Amburgh sent the check and you countersigned it on the Watch Tower Bible & Tract Society bank account, that the check would be honored, didn't you? A. I certainly did.

2544 Q. And therefore there was not any necessity for using this Pierson check, was there, to get money? A. To get money for the seventh volume—it was kept separate from the Watch Tower account—

Q. The reason for that being that the other directors were not to know it? A. Not at all, sir.

Q. What is your understanding of why it was so separated? A. Because Mr. Rutherford received the money from Mr. Butterfield with which to publish that book.

Q. And then didn't use it? A. He used it.

Q. When? A. He left \$2,500 at Hammond for Mr. Martin that I didn't know was to be left there, to cover this very amount.

Q. Then Mr. Martin didn't need this \$2,500 check for Mr. Van Amburgh, did he? A. If he had known that the other money was out at Hammond for him he wouldn't have needed it. But the other check never did reach him.

Q. The other check never did reach Mr. Martin? A. The one that Mr. Rutherford said—

Q. I thought you said he left the money? A. He mailed it to him.

Q. He left it or he mailed it? A. He mailed it to him.

Q. He mailed what? A. He mailed a check for \$2,500. 2546.

Q. Whose check? A. His own personal check.

Q. Mr. Rutherford's personal account? A. That is it.

Q. Did you ever see the check? A. No.

Q. When did Mr. Rutherford say he had mailed that check? A. When, he told me that when he came back.

Q. When did he tell you he had mailed it? A. After he returned from the trip west—after Mr. Martin returned.

Q. When was that? A. Sometime in the latter part of July.

Q. How late in July? A. I suppose after—it must have been around the 20th, I believe. Mr. Martin stayed in Hammond about four or five days. As near as I can get to it it would be about the 20th. 2547

Q. Are you pretty sure it was the 20th? A. I am not positive, but that is as near as I can tell.

Q. You are not more than a day or so out on it? A. I don't know.

Q. Don't you know as matter of fact that Mr. Rutherford was at a meeting on the 17th of July, at— A. Yes, but Mr. Martin had not gotten home yet.

Q. Mr. Martin was not there? A. No; he was not there.

Q. Didn't Mr. Rutherford tell you he had mailed this check before Mr. Martin came back? A. I don't believe he did.

Q. Did he deposit this money that he had gotten in his own personal account? A. I was told so by himself.

Q. He said so? A. Yes, sir.

Q. Any place in that record of the volume seven—is there any record as to this money being turned over to the Watch Tower account there? A. Which money?

2549 Q. The money he received from Mr. Butterfield. A. No, I don't know anything about that. I have nothing to do with those accounts.

Q. You did have some conference about this seventh volume with Mr. Rutherford before it was published, didn't you? A. The one I referred to in my testimony?

Q. When was that? A. The 6th of June.

Q. Is that the only time you spoke to him about it? A. That is the only time I remember of having any conference with him about it.

Q. Are you sure that you did not have any other talk? A. That is what I told you.

2550 Q. Are you sure there wasn't or may you have forgotten? A. That is the best of my recollection. If you have any way of reminding me of it do so and I will tell you.

Q. Did you have any talk to Mr. Van Amburgh? A. I remember of none.

Q. Did you have any with Mr. Martin? A. Before June?

Q. Before the book was published, yes. A. I can't remember of any.

Q. You can't remember of having a conversation with Mr. Martin and Mr. Van Amburgh before the book was published? A. While the book was in

progress of being printed I spoke to Mr. Martin about the book; yes, sir.

Q. Did you at that time see the book? A. No.

Q. When was the first time you saw that volume?

A. I believe it was July 17th.

Q. Did you read it? A. I read most of it.

Q. Have you ever finished it? A. No.

Q. Not even up to now? A. No.

Q. How much of it have you read? A. Most of it.

Q. When did you read the extract from 247 to 253? A. A portion of that I never read at all till this storm broke out.

2552

Q. You never read a portion of it. You certainly remember, Mr. MacMillan, this part, don't you, on page 250: "War is in open and utter violation of Christianity. If war is right, then Christianity is wrong, false, a lie. If Christianity is right, then war is wrong, false, a lie." A. Is that the Jefferson quotation?

Q. No; that is the John Hayes Holmes' quotation. A. I did not read that in the book.

Q. When did you read it? A. I didn't read it at all.

Q. Never read it? A. Never read it until this storm came up about the book, then I just looked it over.

2553

Q. You know Mr. Mayberry, don't you? A. Yes, sir.

Q. He is a member of your sect? A. Yes, sir.

Q. You made an affidavit for him when he tried to claim exemption? A. I don't remember about ever doing so. I may have.

Q. Did you make many affidavits? A. No.

Q. How many? A. If I made one for Mr. Mayberry, that is all I remember.

Q. Do you remember making one for him? A. I am not positive of that. Mr. Sturges was attending

2554

Alexander H. McMillon

to some of this business in the absence of Mr. Rutherford and he asked me to sign a paper regarding Mr. Mayberry's exemption claim, but I have no very clear recollection of the matter now.

Q. And didn't you read the paper you signed? A. Yes, sir; if I signed one I read it.

Q. Did you sign one? A. I say that I signed some paper there, but I am not clear about just what it was.

Q. Was it an affidavit? A. I can't remember just what it was.

2555

Q. Did you acknowledge it before a notary or commissioner of deeds? A. That matter is not clear. If you have any evidence give it to me and I will tell you.

Q. You just testified from memory, Mr. MacMillan; your memory is fairly accurate, isn't it? A. On certain things, yes, but incidental matters of that kind—I remember Mr. Sturgess called me in one day and Mr. Mayberry came in, just about the detail of that I don't remember.

Q. Did you sign a paper? A. I am not positive of that, either. If you have the evidence there present it and I will identify that and acknowledge it.

2556 Q. Did you swear to one? A. I tell you that I am not positively clear on the matter.

Q. Did you read over any papers that Mr. Mayberry had? A. I do not remember of doing that.

Q. Did you know that Mr. Mayberry claimed exemption under the Selective Service Act? A. Yes, sir; I knew that.

Q. Did you know that when you signed the affidavit in support of the claim? A. I told you I am not distinctly clear on it. I can't just remember what I did. Mr. Mayberry was in the editorial room and Mr. Sturgess was there, and we had some conference, and whether I signed the affidavit or what I did for.

him I do not now. If you have any evidence there let me see it. Don't try to get me into a trap, Mr. Buchner.

Q. I am not trying to get you into a trap. I am asking your recollection as to those things. A. I am telling you about it.

Q. Have you signed any affidavit for anyone else under the Selective Service Act? A. I do not remember of having done so.

Q. Your title in the organization is what? A. I haven't any title.

Q. Aren't you known as the assistant to the president or representative of the president, or something of that sort? A. Kind of a roustabout man, you might call it, an assistant in a certain way.

2558

Q. Isn't that your title? A. That is what Pastor Russell brought me to do—

Q. Isn't it still your title? A. They say I am a representative of the president around there.

Q. What do you say? A. I don't make any claim for any special title about it at all. I do what I am told to do.

Q. You don't claim any title? A. I am not looking for any title in that connection at all.

Q. Did you ever have any conversation with Mr. Hudgings about this seventh volume before it was published? A. No; not with Mr. Hudgings.

2559

Q. Not at all? A. Not that I can call to mind.

Q. Did I understand you to say that this \$2,500 check that was given out to Mr. Martin at the time he went to Hammond, Indiana, was a blank check signed by Mr. Pierson? A. That is what it was, and Mr. Van Amburgh, I believed, filled in the amount.

Q. Was it payable to Mr. Van Amburgh or did he also fill in his own name? A. I don't think his name was in it at all. As I understand the check—I knew Mr. Pierson's signature and I saw his signature on the

bottom of the check, and as I recall the check was blank, and Mr. Van Amburgh filled in the date and the amount and gave it to Mr. Martin.

Q. Didn't you hear Mr. Van Amburgh testify yesterday that \$2,500 check that he received he had endorsed and deposited in his personal account? A. Yes, sir, I heard him say that.

2561 Q. That was not the name—Van Amburgh was not the name signed on the check that was given to Mr. Martin? A. No, you heard Mr. Van Amburgh say more than that. You heard him say that there were two bank accounts that he was drawing on, one that Mr. Pierson placed in his, in Van Amburgh's name, and an account that was in Mr. Pierson's name and that Mr. Van Amburgh had the privilege of drawing from both.

Q. Is that what you understand Mr. Van Amburgh said? A. Yes, sir. If it is not I am very badly mixed up.

The Court: We will take our usual short recess here so the testimony can be looked up.

After recess.

Q. I understood you to say, Mr. MacMillan, you had heard read the letter from Jersey, from Camp Dix, that is the D'Onofrio letter, is it? A. I don't know them by name. I heard the New Jersey one read.

Q. You did hear it read? A. Yes.

Q. Who read it? A. I couldn't tell you that.

Q. When was it read? A. I don't know the exact date. However, I presume shortly after it was written.

Q. It was read, as I understand your testimony, down at the Bethel Home one day at the noon day

meal? A. I don't know which meal it was, one of the meals.

Q. Exhibit 24, that is the letter you refer to as the New Jersey letter you heard read, isn't it? A. By the second paragraph I know the matter of the stick that is the letter. Do you want me to read it all?

Q. If there is any question in your mind read it all, surely. A. I am pretty well satisfied, Mr. Buchner, that is the letter.

Q. Can you tell us about when the letter was written? A. That would be absolutely impossible for the reason there are so many letters, items, abstracts read there, I make absolutely no effort to chronicle them in my mind as to dates.

2564

Q. Was it read in English? A. Yes.

Q. Do you know who read it? A. I said already I did not.

Q. You have no recollection at all as to that? A. No.

Q. Did anyone pass any comments? A. I remember of none. We do not comment on any such letters or items. Our meal hour is like a religious meeting.

Q. You say there are letters and things of that sort read at these meals? A. Do you wish me to describe the meal?

2565

Q. No, I just asked you if they read letters down there? A. When we come to the table in the morning the first thing we have a hymn. That hymn is sung. After the hymn our consecration vow is read. We stand and remain standing while prayer is offered. Then we are seated at the table, and after some individual asks the Lord's blessing on the meal. Then for three or four minutes the headlines of newspapers are read because the workers do not have an opportunity to read. Mr. Martin, when there, does the reading, as he has a good clear voice. He reads the

headlines of the paper. After that is done, it takes about three or four minutes, if he attempts to read an article it takes five maybe. Then we have "heavenly manna," a Scripture verse for each day of the year, with comment on each verse. That Scripture verse is read, and the meeting is open for questions. Anybody having a question asks it, they ask various ministers or elders. After the comments which consume five or ten minutes, maybe half an hour, given a lecture, then Pastor Russell's comment is given. That is the morning meal.

2567 Q. When did these letters come in? A. Generally at the noon meal or the evening meal.

Q. They are usually read by Mr. Martin? A. Generally by Mr. Martin, sometimes by others.

Q. What others? A. I have read letters there, Mr. Goux.

Q. Usually one of you members at the head of the association reads them? A. No, anybody that happens to have a clear distinct voice.

Q. Letters read are picked out by whom? A. I don't know.

The Court: How is this a material question?

2568 Q. Do you recall who read this particular letter? A. No, I told you twice I did not.

Q. Did you? A. No, I did not. You don't seem to believe me. I am trying to tell the truth, you are trying to get me to lie, that is not a square deal.

The Court: I hardly think your comment is justified, this is cross-examination.

The Witness: I don't know the law.

The Court: I am going to tell you. It is cross-examination, the law of this land allows counsel great latitude in cross-examination. If it did not the effectiveness of the cross-examination would amount to

nothing. I think a fair inference can be drawn by counsel in this court, acting under his official duties, they are not trying to get you to lie. I think that comment was made by the witness for the purpose of having an effect on the jury, and perhaps on the Court. While you are here as a witness, please do not offend again in that regard?

The Witness: I shall endeavor not to. I beg your pardon if I have done anything wrong.

Q. This letter had to be read at the noon day meal or the evening meal?

2570

The Court: What difference does it make which meal? The question is it was read.

Q. Do you remember whether or not on that occasion Mr. Rutherford was present? A. I am not absolutely certain. He is absent so much.

Q. What is your recollection as to that? A. My recollection is I would think possibly he was, but not absolutely certain.

Q. Was Mr. Van Amburgh there? A. I don't know about that.

Q. Mr. Van Amburgh is very rarely absent? A. He is not absent so often as Mr. Rutherford.

Q. He is there most of the time? A. Most of the time except Saturday and Sunday.

2571

Q. Was Mr. Martin there? A. I am not certain about that, Mr. Buchner, not certain at all.

Q. Do you know whether any of these gentlemen here were present at this time? A. I know Mr. Woodworth and Mr. Fisher were not. About Robison I am not certain either. I rather think Mr. Robison was not there. So the only ones likely to be there were Mr. Martin, Mr. Van Amburgh and Rutherford, but I am not absolutely certain they were. It would be my best judgment they were.

Q. You have forgotten Mr. DeCecca? A. He was very likely there also. I sit quite a distance from him, he is not very tall, I would not be likely to see him.

Q. So far as you recollect no comment was offered on this letter at the time it was read? A. That is correct.

Q. Are there any of these other exhibits read here that you heard read there? A. I heard the letter from Italy read at the table.

2573 Q. When was that? A. I can't remember that either.

Q. Can you tell us which of these men were present at that time? A. No, I would not be able to tell you that, long ago, that was read a long period ago, a more ancient letter than the other one.

Q. It was read in English? A. Yes.

Q. You were present at the meeting in July, 1917, 17th of July, the Board of Directors? A. Yes.

Q. You heard the report made by Mr. Rutherford at that time? A. Yes.

Q. You heard the reference to the opposition in the Board of Directors? A. Yes.

2574 Q. The possible delay in the seventh volume by reason of that fact? A. I don't know if it was stated that way. You read it and I will tell you.

Q. "When the time came for the publication of this work" down to "office force." You heard that read? A. Yes, sir.

Q. You signed your name to that approving that? A. Yes, my signature is attached to that.

Q. Your signature is attached? A. Yes.

Q. That is true, isn't it? Mr. Rutherford took counsel with you four gentlemen? A. Just as I told in direct-examination, not the four together.

Q. He took counsel with you? A. Individually, as my testimony will show on the 6th of June.

Q. Answer me. Don't refer to testimony. He took counsel with you? A. Yes.

Q. He took counsel with you about publishing this book without referring it to the opposing director; isn't that what the counsel was about? A. No, sir.

Q. What was it? A. Regarding the advisability of publishing the book, that was a great event in our lives.

Q. Just the advisability of publishing the book? A. Yes.

Q. No reference being made to the opposition? A. Not that I remember about; can't recall, don't remember, cannot think of any cause why there should be any. The great question was the seventh volume.

2576

Q. At no time at that conference was it discussed whether or not the men termed the opposition should be consulted? A. No, they would not be consulted ordinarily about such matters. That would not enter our discussion. They would not be consulted by Pastor Russell.

Q. Why were you consulted? A. As a personal friend, I believe; I was not a member of the board at the time.

Q. Did you have any official position there? A. No, sir, aside from the fact I was called the assistant to the president.

2577

Q. The conference with you was as to the advisability of publication? A. Yes.

Q. You at that time stated in your judgment it was advisable to publish it? A. If he thought the manuscript was a good interpretation of the two books, it was.

Q. Well, were you willing to stand on his opinion as to the interpretation? A. I would have no other course.

Q. That is not the answer. Were you willing to stand on his judgment whether or not that was a correct interpretation? A. Yes.

Q. You were? A. Yes.

Q. That is why he consulted you, to find out your willingness? A. I don't know that.

Q. What did he ask you? A. He asked me what I thought regarding the advisability of publishing the seventh volume. He told me there was a manuscript submitted for the seventh volume.

Q. Was the manuscript there at that time? A. I don't know whether every leaf was there. I saw a bunch of paper about that high on the floor.

Q. On the floor? A. Yes, right on the floor.

2579 Q. Is that the usual way to treat manuscript for important copy? A. There is a nice carpet there, no table, that is the way Pastor Russell did with matters of consultation, laid them on the floor.

Q. The consultation only included you two? A. That was all.

Q. Wasn't this stuff on a table or desk before that? A. Which stuff?

Q. The manuscript? A. Repeat that.

Q. Wasn't it on a desk before you came in, or table? A. No, right on the floor.

Q. This was the 6th of June? A. Yea.

2580 Q. You are sure of the date? A. Yes, by the date the contract was signed, it was signed that day. That is the only way I have to fix it.

Q. The contract for what? A. The publication of the book.

Q. You know that contract was signed that day? A. That is what I understand, on the 6th of June, that was the date it was signed by Mr. Rutherford.

Q. I understood you to say you had not seen any of these exhibits. A. I thought you were talking about letters.

Mr. Sparks: I was referring to the exhibits of the indictment.

Q. Will you show me that contract signed on the 6th of June you are talking about? A. If it is in here. That is it there, Mr. Buchner.

Q. Did you see Mr. Rutherford sign that acceptance? A. I saw him sign that contract there.

Q. Were you there when he signed it? A. I was there when he signed it.

Q. That was before those 96 pages were put in? A. I don't know anything about that.

Q. Doesn't it say so? A. I did not read that part.

Mr. Sparks: I object, there is nothing in evidence that 96 pages were put in after the 6th of June.

2582

Mr. Buchner: It says so on the contract.

The Court: That would make the cross-examiner's question objectionable. The witness can say what the fact is, or he don't know, as he already has.

Mr. Fuller: "That was before the 96 pages were put in?" That is a mythical fact. Mr. Conkey testified about the difference in the contract price.

The Court: The question on cross-examination is proper. The witness can say if he don't know—

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Q. Did you ever hear anything about these 96 pages that were added? A. What do you mean, hear anything?

Q. Did anyone ever tell you 96 pages were added after that original contract? A. I don't know anything about it. I may have heard it indirectly, it would not come under anything I had authority of.

Q. Mr. Rutherford consulted you the 6th of June as to whether or not the book should be published? A. As a personal friend.

Q. Having consulted you and gotten your opinion, he got the contract? A. Yes.

Q. You gave him your opinion with reading the book? A. Certainly without reading the manuscript.

Q. Did you read any part of it? A. No, I read the preface only.

Q. Who wrote that? A. Mr. Rutherford told me he wrote it.

Q. You read that at that time? A. Yes, sir.

Q. Are you a member of the Board of Directors now? A. Yes.

2585 Q. When were you appointed? A. I was elected last January in Pittsburgh at the business meeting.

Q. When did you first hold office? A. From the 17th of July on.

Q. Last year? A. Yes.

Q. The 17th of June, wasn't that the day on which Mr. Rutherford first had a meeting with these other directors and told them they were improperly in as directors? A. He made that statement at the table at noontime while they were present.

Q. What date? A. July 17th.

Q. Didn't he on June 17th say so? A. No.

2586 Q. Didn't he on July 17th say because he said on June 17th they were improperly in as directors, and there hadn't been successors appointed within thirty days he would appoint you? A. I don't remember that.

Q. Weren't you interested enough in knowing how you were inducted in office to listen? A. I don't remember him saying anything like that on July 17th at the table at noon time. He read a legal opinion and he explained the situation. That is the first I heard of the fact that he thought these directors were not holding office legally.

Q. On the 17th of July? A. Yes.

Q. He never told you that previous to that time?

A. Never.

Q. You were a warm enough friend of his to consult about the seventh volume before he signed the contract? A. Yes.

Q. And he never mentioned your appointment before that to you? A. He is just close enough for that, like any good lawyer.

Q. Did he never tell you until July 17th, you were to be one of the directors? A. No.

Q. It was an unexpected honor? A. I wouldn't call it an honor. When he handed me a paper for my signature and acceptance it was a surprise for me.

2588

Q. He had the acceptance prepared for you to sign? A. It was all ready. I read it over.

Q. Who prepared it? A. His secretary, I guess.

Q. Don't you know he wrote the others, Fisher was accepted the 14th of July? A. I don't know that.

Q. Didn't you see Fisher there? A. He was there, yes.

Q. When did he come in the Bethel? A. I believe in the morning of July 17th.

Q. Woodworth came with him? A. He was there also.

Q. Came with Fisher? A. I couldn't say. They were both in Mr. Rutherford's studio when I saw them the first time in the morning of July 17th.

2589

Q. What time was that? A. I should judge around nine or ten o'clock in the morning, I am not positive about the exact hour, but that will take it in.

Q. Have you ever discussed this seventh volume with anyone? A. Just what do you mean, I didn't catch the point of the question?

Q. Have you ever discussed the seventh volume with anybody? A. Since it was published?

Q. Anytime? A. Yes, I have discussed the seventh volume with many people.

Q. Have you expressed to them your acceptance of it? A. My acceptance of all I read of it.

Q. Did you say you accepted it? A. All I read of it.

Q. Just how much of it did you read? A. I can tell you very quickly. I read but very little of the Songs of Solomon, between the interpretation of Ezekiel and Revelations; and there are some of those creeds in small type, I believe in the third chapter of Revelations, I read very little of those. Then in the fourth chapter of Revelations there are a great many
2591 comments on all of the different prophets, death's restitution, I did not read that, because I heard Mr. Woodworth deliver a sermon containing the matter in that part of the book. I did not take time to read it. I had to deliver that sermon for Mr. Woodworth from his own notes. I knew pretty well what his thoughts were. I didn't read the comment by Dr. Holmes, nor didn't read the Jefferson article in this book. I didn't look for their interpretation of the Bible, I wanted Pastor Russell's, or comments of the gentlemen who compiled it.

Q. You say the reason you did not read the abstracts from Dr. Holmes or Jefferson was you wanted
2592 Pastor Russell's interpretation? A. I had previously read the Jefferson article in the "Watch Tower" and had no occasion to read it the second time. I wasn't interested in what Dr. Holmes had to say about these matters.

Q. Is that the only portion of it you did not read? A. I would not be positive.

Q. Did you read that portion on page 247, "Come out of the mouth of the dragon"? A. Yes.

Q. When? A. I read that in the course of my reading. I began at the first of the book, it was about the latter part of July or August, either one of the

two. I began at the first, and began to go through the book.

Q. July or August, 1917? A. Yes.

Q. You remember that portion of the book? A. Yes.

Q. Do you believe it? A. Yes.

Q. You had considerable to do at the Watch Tower with the dissemination of this book? A. Yes, in the way of generally looking after the interests of the work, not particularly this book, all the literature there was—I was connected with, appointing out ones to do the work.

2594

Q. You knew this book was going out in large quantities? You knew that at the time you read it? A. Yes.

Q. At the time you read this section on page 247, there isn't any question you knew the United States was at war? A. None whatever.

Q. You knew of the Selective Service Act? A. Yes.

Q. Yet you intended this book to say what it says? A. Yes, and to this day, and my understanding is it is all right, I don't see how it could be objectionable to anybody.

Q. Did you ever read the quotation from John Hays Holmes? A. Never.

2595

Q. Never up to now? A. After the storm began I read part of it, I never read it consecutively from end to end.

Q. Didn't you think if you were standing behind its dissemination you ought to have read it? A. I wasn't standing behind it.

Q. Your helping tended to make this dissemination effective? A. Not directly.

Q. You were doing your share toward helping to get it out? A. What was necessary in connection with my regular work at the Watch Tower.

Q. In connection with your regular work at the office you were willing to send out the seventh volume?

A. Yes.

Q. Didn't you think it was necessary to read all the parts? A. I read all but—

Q. Having read on 247 about patriotism, having read that in July or August, 1917, didn't you think you ought to read the rest of what followed? A. Not necessarily. That was sufficient explanation of that text for me.

Q. You were satisfied with that? A. Yea.

2597

Q. Did you read the portion on 406? A. What particular part do you mean?

Q. The portion that has been quoted here? A. Please quote it again.

Q. "There is a hint here conscription will meet with opposition"? A. Yes; I read that.

Q. When did you read that? A. I should say in the month of August. That is the latter portion of the book, and I read consecutively.

Q. In the month of August? A. Yea.

Q. Did you believe that? A. I did not know what to think about it. I was not particularly interested in that, I cannot remember the impression, even that it made on my mind when I read it.

2598

Q. You don't remember it one way or the other? A. No.

Q. The fact that there was a conscription law in this country did not make that become imbedded in your mind? A. No, I take no part in politics.

Q. That is not politics. A. Connected with matters of government.

Q. Do you mean you have no right to see that this country is correctly governed? A. No, that is not part of my business.

Q. Are you a citizen? A. No.

Q. Have you ever been naturalized in this country? A. No.

Q. You are still a British subject? A. I have taken out first papers.

Q. When? A. I have forgotten now. Nearly two years ago.

Q. First papers? A. Yes.

Q. Do you intend to take out second papers? A. I thought I would later on.

Q. You intended to take an oath of citizenship at that time? A. I did not know what was required of me.

2600

Q. You are not accustomed to entering on things you don't know anything about? A. What do you mean, about?

Q. You don't ordinarily start something you don't know about? A. No.

Q. You knew that it required, as a matter of fact, when you filed your second papers, for you to take an oath that you renounced allegiance to King George of England, and swore to uphold the Constitution of the United States? A. I did not know what was required because I did not arrive at that part.

Q. You knew if you ever took an oath of citizenship you would swear to uphold the laws of this country? A. I did not know about it, never had experience with it.

2601

Q. Didn't you know you would have to take an oath of citizenship? A. I did not know what would be required.

Q. How long are you in this country? A. Since 1895, off and on. I have been back to Canada various times.

Q. Do you tell this jury now you did not know you would have to take an oath of citizenship to change from a British subject to an American subject? A. I tell the jury I did not know.

Q. That is not the question.

The Court: Just direct your answer on whether you would have to take an oath of allegiance.

A. I presume that would be required of me. I presume so now.

Q. Didn't you presume it when you filed first papers? **A.** That did not enter my mind when I filed first papers.

2603 **Q.** Didn't you know you would have to take an oath of allegiance as a citizen? **A.** I knew I would have to make some arrangement.

Q. Some kind of an oath? **A.** Some kind of a pledge.

Q. You knew you would have to swear? **A.** I wasn't certain of it. I knew there was some pledge of allegiance before they would accept me, I did not know what it consisted of.

Q. You knew they would require a pledge of allegiance? **A.** Certainly.

Q. Did you intend to give that pledge? **A.** That would be when I arrived at that stage of the process, how it would be done.

2604 **Q.** Didn't you know when you filed your first papers, you intended to do that? **A.** Yes.

Q. You swore to that? **A.** That was my intention.

Q. That was not your intention if you did not know? **A.** I did not know if they would accept me, I did not know the requirements; when I started out to do that it was my intention to become a citizen.

Q. When you filed your declaration of intention you swore to it, you knew you were swearing to the statement you intended to become an American citizen? **A.** Yes.

Q. You knew when you came to the point of becoming an American citizen— A. I know that.

Q. Didn't you know that pledge also embodied a pledge to obey the laws of this country? A. Certainly I intended to do that anyway.

Q. Did you have any reservation in your mind at the time you took this oath on your declaration of intention? A. None whatever.

Q. Why didn't you, when you read this portion about the hint on conscription, why didn't it make an impression on you? Didn't it look like opposition to the laws of this Government? A. No.

2606

Q. Didn't it look like opposition under the laws of Canada? A. If the Bible would imply something that would be a hint, that would not mean it was gotten out in violation of the law.

Q. Didn't you accept this book and its interpretation of the Bible as something you should apply to your everyday life? A. To the extent I could understand and accept it.

Q. You had mental reservations even as to this book? A. I would not say that.

Q. What do you say? A. I simply say I read the book. What I read proved to be of a benefit and blessing and helped me understand the prophecies it elucidates. I accepted it in that way. There were things in there I did not agree with, not fundamental points, merely incidentals.

2607

Q. How many? A. I particularly noted in connection with the second chapter of Naom, in connection with the locomotive, I thought that referred to the automobile.

Q. You agree with Mr. Van Amburgh? A. I don't know what Mr. Van Amburgh thinks about that. I believe that refers to the automobile and have preached it a great length of time.

2608

Alexander H. McMillan

Q. You agree with Mr. Van Amburgh? A. I don't know definitely how he applies it.

Q. Isn't your memory of that portion clear? A. He did not go into the reason.

The Court: How is that material?

Mr. Buchner: To show his recollection.

The Witness: I remember that point in a sermon I delivered on Christ's second coming, and have been using it for a great number of years.

2609

Q. Is that the only portion? A. There are matters that I am not absolutely certain are true, but I accept them until I see a better interpretation.

The Court: You accept the whole book?

The Witness: I accept the book as a whole.

Q. You accept that section on 247 and the hint about opposition to conscription? A. I accept the book as an entirety without the mention of any particular part. Take the Bible, there are things in there I do not agree with.

2610

Q. When you circulated it you intended people to whom it got should believe it? A. I had no intention to do that. It was an incidental matter in our work that covers books, Bibles, pamphlets, this book was added to the list as the seventh of the series, given the same consideration as the others.

The Court: I thought you said the bringing out of the book was a big event?

The Witness: It was when it came out, but after it was put with the others and sent to the people.

Q. Has it been said to the Watch Tower and to your subscribers, this is the culmination of the Scriptures and it is finished? A. The last of the Scriptures.

Q. This finished it? A. Yes.

Q. Isn't an important matter now that your doctrines are finished? A. Yea.

Q. Isn't it important to you as one of the men in the association? A. Important in the sense in which it is important.

Q. Did you have anything to do with the Colporteur Department? A. No, Mr. Donald is the head of that.

Q. Didn't you have general supervision over that? A. No, I consulted more particularly with Mr. Martin. I didn't bother with the heads of the various departments.

2612

Q. The "Bible Students' Monthly" you were shown before you said you had or had not seen that? A. I said I did not read it in that form.

Q. Who had general supervision of the "Bible Students' Monthly"? A. Pastor Russell when he lived.

Q. After he died? A. Mr. Hudgings.

Q. Did he have entire control? A. The members of the editorial committee as I understood it.

Q. When you wanted a reprint who had control? A. I had nothing to do with the reprint.

Q. Nothing? A. Nothing.

Q. Isn't it a fact when Mr. Hudgings went to Mr. Adams, Adams suggested being an eight day press he should reprint other numbers? A. I heard that.

2613

Q. Then if Mr. Hudgings could not agree on what was the big selling numbers and he came back to Mr. Martin? A. These are not sold, given free.

Q. A popular number, call it. If he could not agree, he would go to Mr. Martin? A. I am not sure. He might. He might go to Mr. Rutherford.

Q. If there was any difference of opinion between Hudgings and Martin as to what was to be reprinted, wasn't Mr. Adams referred to? A. No, sir.

Q. Never? A. Never, positively not, to my knowledge.

Q. Not to your knowledge. Do you mean to say you wouldn't know if that happened? A. I don't remember that that happened. That would not come in the regular course of business. I had nothing to do with what numbers were to be reprinted or republished.

Q. Will you answer without saying you don't remember?

The Court: He is entitled to make that explanation.

2615 Q. Will you say that did not happen? A. I say I don't remember.

Q. Might it have? A. They might have asked me, I don't remember, that would not be my business to decide that.

Q. Whose would it be? A. Mr. Rutherford's.

Q. Suppose he wasn't there? A. The other members of the editorial committee.

Q. Didn't you hear Mr. Robison, a member of the editorial committee, say all they had jurisdiction of was the "Watch Tower"? A. He may have said that. My understanding of it is all the publications would come naturally under the direction of the editorial committee.

2616 Q. Why wasn't the seventh volume returned to them? A. The three members of the editorial committee are Fisher, Van Amburgh and Woodworth.

Q. He was not a member? A. His name was left by Pastor Russell to become one.

Q. He was not a member? A. He was a prospective member.

Q. Did your prospective officers take office before they were elected or chosen? A. No, but he was considered in line for that, selected for that, because of their qualifications, by Pastor Russell.

Q. There were five? A. There were five originally left, and others to take their places if they vacated.

Q. Between 1916, when Pastor Russell died, and 1917 outside of Mr. Rutherford and Mr. Van Amburgh, who were the members of that editorial committee? A. What is that?

Q. Between Pastor Russell's death and July, 1917, outside of Mr. Rutherford and Mr. Van Amburgh, who were the members of the editorial committee? A. I will try and give you correctly. When Mr. Russell's will was read—

Q. Who were they? A. The names of the original committee, as I remember them, were E. W. Breneisen, W. E. Page, F. H. Robison, W. E. Van Amburgh and H. C. Rockwell. I believe those were the five original members after the death of Pastor Russell.

2618

Q. Mr. Rutherford wasn't on it? A. No, I believe not.

Q. When did he go on? A. No, he was one of the last to take the place of those who left, but Mr. Rockwell resigned shortly after, Breneisen resigned and I believed Mr. Page resigned. Mr. Rutherford and Mr. Hirsh, and I believe, Mr. Sturgeon were elected to be put on, then later, as I remember, Mr. Sturgeon resigned, Fisher was put in his place.

2619

Q. That was after July? A. I can't give you the dates correctly.

Q. Up to June 17th, or 25th, Mr. Van Amburgh, Mr. Rutherford and Mr. Robison, did you say? A. I believe so.

Q. Mr. Sturgeon and Mr. Hirsh were the members? A. Yes.

Q. The only two men that have admitted they knew anything about it on that committee, the only man is Van Amburgh. You knew it was not referred to

Mr. Hirsh, he is one of the opposers? A. Yes, opposing the society.

Q. Mr. Sturgeon is one of the men opposing the society? A. Yes.

Q. He is out? A. Yes.

Q. So is Mr. Hirsh? A. Yes.

Q. Mr. Robison says he did not see the book? A. That is correct. I heard him say that.

2621

Q. What three passed on it? A. The two serving actively and one in reserve to take the office when a vacancy occurred. Mr. Sturgeon was not mentioned by Mr. Russell in his will.

Q. Never mind that. I am asking about the fact, not what was mentioned. Only two members of that committee O K'd it? A. Three of the members on that committee now O K'd it.

Q. He was not a member at the time he O K'd it? A. No, he was a prospective member.

Q. Do you mean Fisher O K'd it? A. He stated on the stand he prepared Ezekiel.

Q. He said he did not read Mr. Woodworth's part? A. I am not certain if it is in evidence. He was on the stand quite a while. I don't remember what he said.

2622

Q. Do you always have a reserve member of the editorial committee to O K anything the others would not agree to? A. I don't remember that.

Q. How many are on the reserve committee now? A. Reserve? I don't know about the number now. I can call the man. Hirsh resigned.

Q. I am asking you how many men are left on this reserve force of the committee? A. I don't know anything about that.

Q. You never print the names of any of the men on reserve, who O K this stuff? A. I don't know anything about the names on reserve.

Mr. Fuller: I object.

The Court: He said something to that effect, that Mr. Fisher was on a sort of reserve.

Mr. Sparks: He is referring to Pastor Russell's will. In his will he named certain people.

Mr. Buchner: I object to counsel testifying about the will.

Mr. Sparks: He said these people named were on the secondary list named by Pastor Russell, when the others should resign, die or get out. The question of Mr. Buchner indicates there is a reserve list that keeps coming all the time. When the names mentioned in Pastor Russell's will are exhausted, they must resort to a new process of election.

2624

The Court: How is this very important, who O K'd this or whether it was O K'd at all. They put it out and sold it. They all say they approve what was in it in substance. How is it necessary to spend much time upon the committee. There is no dispute in regard to that as I recall, to bring about the same result.

Q. What connection did you have with the correspondence in the Bethel Home? A. Nothing at all in the Bethel Home.

2625

Q. In the Tabernacle? A. I had nothing to do with the correspondence.

Q. Absolutely nothing? A. Using your term as we use it, I have not. We talk about the correspondence department.

Q. I am talking about correspondence, the general term? A. Very few letters came to my desk except my own personal mail. I did not know of anything coming addressed to the Watch Tower Bible & Tract Society till after it was opened.

Q. You never got anything of that kind? A. No, my personal mail.

Q. I mean general mail of the Watch Tower?

A. I had nothing to do with the general mail.

Q. Haven't you supervision of the mail? A. No, Mr. Martin attends to that.

Q. Does he attend to the outgoing mail? A. Yea, he has a stamp, he attends to the outgoing mail.

Q. He is the only man with a stamp? A. He is.

Q. Was every letter signed stamped Watch Tower Bible & Tract Society? A. That is the sort in regard to the office; where Mr. Van Amburgh is—whether Mr. Van Amburgh and Rutherford have stamps that is a separate matter.

Q. If it follows the regular course, he gets it? A. Exactly.

Q. Did you ever find out this Italian letter you heard read, did you ever try to find out what became of that copy? A. No.

Q. Did you have anything to do with the dissemination of any of the ordinary correspondence down there? A. No.

Q. Did you have anything to do with the contracts for the printing at all? A. Not directly.

Q. Indirectly? A. I would not say I had anything specially that I can remember of. There are times when Mr. Rutherford would be away, I would be consulted as to my best judgment about matters.

Q. I understood you to say before, Mr. MacMillan, you did not sign checks if Martin was there? A. That is right since last January. Prior to that time I used to sign checks when I was in, Mr. Martin would usually prefer to have me do it and pass them to my desk.

The Court: You have a desk to write on?

The Witness: Just to keep things on. I do very little writing, very rarely do I write.

The Court: This desk you have to keep things on is a writing desk?

The Witness: A roll top desk.

The Court: You have written there?

The Witness: Very little. I just carry a fountain pen and do a little writing occasionally, not very often.

The Court: Very, very seldom?

The Witness: Very seldom.

The Court: Probably how often in the course of a year? 2630

The Witness: I write some every day I am there, not much, signing my name to checks.

The Court: You said you did writing at your desk very, very seldom.

The Witness: I meant writing a letter.

The Court: When I said how often did you write there I was referring—I wish you would tell me how often you engaged in any act of writing in your office, at or about your desk?

The Witness: When I sign checks.

The Court: That don't tell us. Maybe you signed one check a year. 2631

The Witness: About the 1st of the month, if I was around there when we were paying out bills, in the evening time I would sign probably on an average from ten to fifteen or twenty checks, and then during the month, in between at all times, the checks came to my desk for signature. Aside from that I did very little writing at my desk.

Mr. Buchner: If I may have the privilege of recalling this witness when certain papers for which I have sent are returned I can rest my

cross-examination here. I sent for them this afternoon. I thought they would be here before this.

The Court: If there isn't any objection on the part of the defendants, the Court is quite willing you should stop here. The Government will have the right to recall any of the defendants, of course, for cross-examination.

RE-DIRECT EXAMINATION by Mr. Sparks:

2632

Q. I show you a check Mr. MacMillan, dated January 21, 1917, being No. 79, and ask you if that is the blank check Mr. Van Amburgh filled in and gave to Mr. Martin on the occasion when he was going to Hammond? A. That is just like it.

Q. Turn over on the back and see whether by the endorsement— A. That is Mr. Martin' endorsement.

Q. See the bank stamp on it, and see whether that will help you to say that was the check taken to Hammond and there cashed? A. I would say that is the check.

2634

Q. What? A. I would say that is the check according to my best judgment, there is no reason for me to think it is not and every reason to think it is.

Mr. Sparks: There is a red line over the front of it, I was looking at the other one. I will correct my question to January 12th.

Q. Do you know Mr. Pierson's signature? A. Yes, I have seen him make it.

Q. Is that Mr. Pierson's signature on that check? A. That is Mr. Pierson's check as I have seen him make it.

Marked in evidence as Exhibit H.
(Check was read to the jury.)

Q. You stated on your cross-examination to Mr. Buchner that you saw the contract or saw the manuscript for the first time on June 6th, and when pressed for an explanation as to how you could fix that date, you referred to the fact that the contract was signed that day, and you have picked out Government's Exhibit 2j, in evidence. I ask you if that was the contract signed in your presence on that day and whether it bears the date June 6th? A. It bears the date June 6th, and that is the contract that was signed on that date.

Q. You said that there were some things in Revelation you did not agree with and you name one wherein a railway train was described. You said your interpretation of the Scripture of which that was an explanation was that it was the automobile. Do you recall how Pastor Russell interpreted that passage of the Scripture?

2636

Mr. Oeland: That is objected to, wholly incompetent, irrelevant and immaterial.

The Court: I think as long as the District Attorney referred to that it is better for the Court to rule the question in.

A. I do not recall his interpretation.

2637

Q. I show you series seven at page 93, and ask you whether that will refresh your recollection. I show you one of your Bibles. May be that will refresh your recollection better than the seventh volume? A. Yes, I see by that that Pastor Russell thought it referred to a railroad train. I do not think there were any automobiles in existence, that is the reason he says that. I think if he were living today he would agree with me in that remark.

Q. Mr. Woodworth has adopted Pastor Russell's interpretation? A. I see that now.

2638

Guy S. Miller

Q. The only recollection you have of this D'Onofrio letter that was read down there, was the fact that certain things in it you recalled by looking at this copy shown? **A.** That is all.

Q. You have no independent recollection of any person who was there or any of the details, except you heard a letter or somewhat similar language read? **A.** That is correct. As near as I remember the family was present.

2639

Mr. Sparks: We prefer not to take up a new witness at this time, if it is convenient for the Court.

At 4:50 P. M. the Court adjourned until Monday, June 17th, 1918, at ten o'clock A. M.

Brooklyn, New York, June 17, 1918.

The Court met pursuant to adjournment at 10:00 A. M.

Present: Parties as before.

2640

GUY S. MILLER, a witness being called on behalf of the defendant, was duly sworn and testified as follows:

Direct-examination by Mr. Sparks:

Q. Mr. Miller, are you a member of the International Bible Students' Association? **A.** Yes.

Q. And work down in the Tabernacle? **A.** Yes, sir.

Q. What is your position there? **A.** I am in the printing department.

Q. And what position does the printing department

take care of? A. They have to do with the "Bible Students' Monthly" and the "Watch Tower," and form letters, job matter, advertising matter and so forth.

Q. I show you Government's Exhibit 23 in evidence, and ask you whether you recollect the individual who gave that order? A. Yes, sir.

Q. And does his name appear on it? A. Yes, sir, it does.

Q. And the name "Miller" in the left-hand corner is your signature? A. Yes, sir.

Q. And is the entire body of the order in your handwriting? A. Yes, with the exception of this (indicating). 2642

Q. With the exception of the clerk's ink marks and stamps, all the rest of it is in your handwriting? A. Yes, sir.

Q. How are these "Bible Students' Monthlies" printed in numbers, are there five, six, seven or eight? A. The press printed eight of them at a time.

Q. Now, as to the press, was the original set-up, did it include No. 8-4? A. On that order, yes, sir, it did.

Q. I mean as to the original one to press? A. No, sir. 2643

Q. Did something happen to one of the original plates while this order was being printed, which made it necessary to substitute another monthly? A. It did, yes.

Q. And what monthly was substituted? A. 8-4 being the handiest set, and on the occasion of being in a hurry that set of plates was taken up first and substituted for the set of plates that was damaged.

Q. Some plate in the original plate was damaged and 8-4 being the handiest one was substituted? A. Yes, sir.

Q. And who gave the order for that substitution?

A. I did.

Q. Did you do that on your own responsibility? A. I did.

Q. Mr. Martin generally O K's these orders, does he not? A. He does, yes, sir.

Q. And did Mr. Martin O. K. substitution of 8-4 or know anything about it? A. He did not.

Q. Did you consult any of these other defendants as to the substitution of 8-4? A. No, sir.

2645 Q. How many thousand 8-4s were delivered on this order? A. 9,000.

Q. And are those 9,000 still down in the Tabernacle? A. They are.

Q. Undistributed? A. Yes, sir.

CROSS-EXAMINATION by Mr. Oeland:

Q. Mr. Miller, who is superior? A. I get my orders from Mr. Hudgings, or did at that time and had them O K'd by Mr. Martin.

Q. Well, what position did Mr. Hudgings occupy? A. He was a member of the printing department. He was the head of the printing department.

2646 Q. What position did you occupy? A. I was his assistant.

Q. What position did Mr. Martin occupy? A. Why, he was the general manager of the whole thing.

Q. So when you wanted an order of printing you would consult with Mr. Hudgings and then get Mr. Martin's O K? A. Yes, sir.

Q. And did this happen that this was the only O. K. that you did not get from Mr. Martin? A. No, sir. Once before the same thing or something similar happened, and I was rebuked for it.

Q. Were you rebuked for this? A. I was.

Q. Who rebuked you? A. Mr. Hudgings and Mr. Martin.

Q. And how long have you been there? A. I was transferred from that department soon after this happened.

Q. What did they say when they rebuked you? A. They wanted to know why I had not consulted them with reference to that B. S. M. 8-4.

Q. What did they say about that 8-4 that they rebuked about, what particular issue? A. They said there were plenty of them in stock and it was not necessary to reprint them.

2648

Q. What were you doing with the stock you had on hand? A. Why, the stock we have on hand is there available to fill orders with.

Q. What do you mean by filling orders with, that is what I want to get at? A. When orders come in for certain numbers of B. S. M., the orders are filled in and sent out.

Q. Who fills—who sends any orders for B. S. M.? A. They are sent all over the country.

Q. In other words, you have them for general distribution all over the United States? A. Yes, sir.

Q. And in October, 1917, you had a large issue of Volume 8, No. 4, on hand? A. I do not know what you mean by large issue, we had quite a number of them.

2649

Q. Didn't you just say the reason they rebuked was because you had the issue on hand? A. Yes.

Q. How many did you have on hand in October, 1917? A. I cannot remember all.

Q. Then tell the jury about how many? A. Well, the bin this number was stored in was generally full, and the bin will hold about ten or twelve thousand.

Q. Now, isn't the reason they rebuked you, that they just ordered 50,000 of Volume 8, No. 4, printed out in the West? A. I do not believe so, no, sir.

Q. Did you hear anything about printing fifty thousand copies of that out in the West for general distribution? A. No, sir.

Q. Did you ever hear of it? A. No, sir.

Q. What did they say when they rebuked you?

Mr. Sparks: I submit he has already answered that.

The Court: He may answer it again.

2651 A. I answered before they said there was a sufficient number of that; that that number was not quite out of.

Q. Didn't you tell Adams afterwards that the reason you did not need these ten thousand was because you had just had an issue of fifty thousand printed out West? A. No, sir.

Q. Did you have any conversation with him about that? A. No, sir.

Q. Did you hear Hudgings talking with him? A. No, sir.

Q. Who attended to the distribution of Volume 8, No. 4? A. Now, what do you mean, local distribution?

Q. Anywhere? A. Why, the shippers.

2652 Q. Who were the shippers? A. Mr. Woodey is the head of that department.

Q. Here in Brooklyn? A. In the Tabernacle.

Q. Who else attends to the shipping? A. Well, those that are under him, at that time Mr. Campbell was in the freight department.

Q. Doesn't Martin have anything to do with that? A. I understand he has general supervision after the whole works.

Q. You didn't charge anything for this "Bible Students' Monthly," but you gave it free, didn't you? A. As far as I know, yes, sir.

Q. Well, didn't they pay for this order of ten thousand copies of this extra edition? A. Why, I am under the impression they paid the printer for printing them.

Q. That is what I am asking about. Who paid that bill? A. I presume the bill was audited by the auditor.

Q. Well, do you know—do you know who paid it? A. No, sir, I do not believe that the check went through my hands, I do not remember the details.

Q. Now, when they told you they had a large stock on hand, what did they say about the stock; the size of it? 2654

Mr. Sparks: I submit when he says they had a large stock on hand, they cannot say much more about the size of the stock than that.

The Court: They might; it will not be excluded on cross-examination, I think.

Q. What did they say about the stock on hand? A. We consider a large stock on hand—

Q. Not what you considered, I asked you what they said, you understand my question, don't you? A. Yes, sir. They told me to look at the bin and see if in my own judgment I could not realize there were plenty on hand. 2655

Q. For what? A. Why, for filling orders as they came in.

Q. Do you know what orders were going out right along in the fall of 1917, for distribution? A. Why, I knew that particular order was not going out very much.

Q. How did you know that? A. Because the bin was filled and had been filled for some time.

Q. Was there any restriction on sending out No. 8-4? A. Not that I know of, no, sir.

2656

Guy S. Miller

Q. How many have you got on hand now? A. I think we have 17,000 about.

Q. Still there? A. Including the 9,000 on the last order.

Q. And how much distribution has been going on since 1917?

Mr. Fuller: You mean distribution of these issues?

Mr. Oeland: Yes.

2657

A. Well approximately I would state something like four or five thousand have been sent out since last November of that number.

Q. By whom? A. By the Shipping Department.

Q. In other words, you are positive, reasonably so, that at least four or five thousand have been sent out by the Shipping Department since October, 1917? A. I am quite sure, yes, sir.

Q. And that is Volume 8, No. 4? A. Yes, sir.

By Mr. Fuller:

2658

Q. Is that of the reprint made that you have testified to in the fall of 1917, or is that of the reprint you had on hand earlier? A. The reprint we had on hand before that.

Q. That is, none of these that were printed in the fall of 1917, have gone out? A. No, sir.

Q. And did you keep a book account in the form of what goes out for distribution down there; a book account of the B. S. M. that goes out? A. We have a book that records outgoing shipments, yes, sir.

Q. Well, who keeps that book? A. The department has a book of their own, and the express and mailing department have their books.

Q. Now, would records of these two books show the distribution of four or five thousand was made, that

you testified to? A. I believe it would, unless I am mistaken.

Q. Are you testifying from any consultation you made of either of these two books, or just from recollection? A. With reference to those having been shipped.

Q. With respect to the distribution of the 8-4? A. I am just testifying from what I remember. I am not absolutely sure.

By Mr. Oeland:

Q. Those you sold in the book store are not included in the records of the shipments which you have just spoken about? A. I do not understand that we sell any of these.

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Q. I mean, distributed through the local portureships? A. They are not included. No, very few leave the store.

ROBERT J. MARTIN, one of the defendants, called as a witness in behalf of the defendants was duly sworn and testified as follows:

2661

Direct-examination by Mr. Sparks:

Q. You are one of the defendants? A. Yes, sir.

Q. Where were you born? A. Elkhart, Indiana.

Q. What year? A. 1878.

Q. What early schooling did you have? A. Common school, high school, one year in college.

Q. Any early religious training? A. Not very much, except as we would get in the home.

Q. When did you first come in communication with Pastor Russell's work? A. July, 1910.

Q. What positions had you held in business up to

that time? A. Ten years in the master mechanic's office of the New York Central yards.

Q. In what capacity? A. Eight years of that time as a clerk, the last two years as chief accountant. Following that I was secretary of the Martin Band Instrument Company and sales manager.

Q. Some business that you engaged in personally? A. Yes, sir, with my family.

Q. With your family? A. With my brothers.

2663

Q. And did you withdraw from that business to join in the work of Pastor Russell? A. To enter religious work with Pastor Russell, yes, sir.

Q. At that time had you read all his books through? A. Yes. I finished them all about that time.

Q. When did you join the International Bible Students Association? A. In May, 1911.

Q. And when did you take the water baptism? A. The same month.

Q. In the International Bible class? A. Yes, sir, at Elkhart.

Q. And since that time down to the present time you have been working in that work? A. Yes, sir, I have been working in that work, but beginning October 1, 1912, I devoted all my time to the work. Previous to that I was still connected with the instrument company.

2664

Q. And had you received any compensation for your work since you have devoted all of your time to it? A. Up until May 1st, 1914, I was in the Colporture branch of the work, and subsisted on the profits from the books with the addition of some that I had of my own. Then, from that time to the present I have been receiving ten dollars, and later fifteen dollars a month.

Q. And that is all that you have received from this work? A. Yes. Incidental expenses, carfare, clothes, shoes and so forth.

Q. When did you first learn that "The Finished Mystery" was an actuality? A. July 11, 1917.

Q. Up to that time had you been consulted in reference to its publication? A. None whatever.

Q. And did you know that Mr. Fisher and Mr. Woodworth were even engaged upon the work itself?

A. There was one I think the Sunday previous to that, I had an appointment at Scranton, Mr. Woodworth told me about having some manuscript on the Revelations, but it was just at a class meeting; we heard there.

Q. Did you go to Hammond, Indiana, to mail the books? A. Yes, sir.

Q. And when was that? A. We started on July 12th.

Q. July 12th? A. Yea, sir 1917.

Q. Now, fixing the date from that time when did you first learn of the existence of the book? A. That was the day previous that I first learned of the book.

Q. That is on the 11th of July? A. Yea, sir, on the 11th in the evening.

Q. And that information was communicated to you by Mr. Woodworth? A. At that time.

Q. So you had not been consulted in reference to the matter one way or the other? A. No, not a bit.

Q. Did you ever directly or indirectly conspire to publish this book? A. I had nothing to do with it in that sense.

Q. Now, you are charged, Mr. Martin, with attempting to obstruct the draft. Have you done anything to obstruct the draft that you are conscious of? A. Nothing.

Q. Do you know of the so-called De Cecca letters? A. Not until I heard of his arrest.

Q. You mean on this indictment? A. No, he was indicted previously, I think, because of those letters.

2666

2667

Q. And that was made the subject of a separate indictment? A. Yes, sir, that is the time.

Q. And that was the first that you learned of the existence of these letters? A. Yes, sir.

Q. Do you know that he had made copies of the D'Onofrio letter? A. I did not.

Q. You know what I refer to as the D'Onofrio letter, a letter coming from one of the Jersey Camps named D'Onofrio, telling of his experiences in camp?

A. Well, my attention has been called since the trial has been taken here having heard of it in the dining room. Mr. MacMillan mentioned it. That recalled to my mind the fact that I had heard it.

Q. Having heard him say that he heard it read in the dining room, have you any independent recollection aside from his testimony? A. I do recall having heard it.

Q. Do you recall that was read in the dining room just as an item of interest coming from some member of the International Bible Students' Association? A. Yes.

Q. Was any action taken with reference to that letter that it should be published and disseminated? A. None that I know of.

Q. So far as you are concerned no action was ever taken on your part to disseminate it? A. I had nothing with regard to its dissemination.

Q. Do you know the Cuminetti letter that is, the printed letter that appears in the indictment of a trial in Italy? A. Well, I have heard of it just recently, since the storm.

Q. Since what? A. Since the storm has arisen.

Q. Up to the time that the storm arose, had you known anything about it? A. Nothing at all.

Q. Had you ever read it in the "Watch Tower?" A. If this is the one that was in the "Watch Tower," I read all the "Watch Towers."

Q. But you have no independent recollection of having read it until it was called to your attention that there had been a publication of it in December, 1916, of the "Watch Tower"? A. Nothing in it to interest me particularly.

Q. What is that? A. Nothing in it to interest me particularly. At least, it may have been an impression on my mind.

Q. What is the character of the work at the Tabernacle, Mr. Martin, that you do? A. The supervision of the work there; operative head, I guess you would call it. Office Manager is the title.

2672

Q. Now, just what do you do? A. Distribute the work, and have charge and supervision of the distribution of the help and see that things move along smoothly.

Q. That is, all the various departments there are under your charge? A. Yes, sir, except Mr. Van Amburgh's department. I have nothing at all to do with that.

Q. That is the financial end? A. The financial offices.

Q. Do you O K the orders that are sent out by publications and printed matter? A. You mean the books; the book orders?

2673

Q. No, the "Bible Students' Monthlies"? A. That is usually the practice, yes, sir.

Q. That you O. K. them? A. Yes, sir.

Q. How about the "Watch Tower"; have you anything to do with that? A. Nothing with the "Watch Tower."

Q. So your O K is only upon orders for printing pamphlets like the "Bible Students' Monthly" and similar pamphlets? A. Yes, sir, and office supplies.

Q. Is this order, Exhibit 23 an exception to the orders that went out signed by Miller? A. I should

put an O K on the orders, my initials with the date and a circle around the whole thing when I O K an order. This is supposed to have been O K'd.

Q. You are supposed to have O K'd? A. That is, all orders were supposed to come through my hands.

Q. Did you O K this order? A. This has not been O K'd by me.

Q. Was that due to an oversight, or did you know of the order itself, or have you any recollection on that? A. No, I did not know that order, and never saw it until I saw it here, and heard it referred to, that I recall.

2675

Q. Do you recall that some time in January there was a change in policy in reference to advertising in the "Bible Students' Monthly"? A. Yes, sir. .

Q. Will you state to the Court and jury what that change in policy was? A. Well, the president desired that henceforth we discontinue the printing of B. S. M. as a form of advertising mediums similar to that, that you hold in your hand, the bottom half is left vacant for advertising meetings. We were to discontinue the printing of B. S. M. for that purpose. In January, or it might have been the winter of 1916, December, sometime around in there.

2676

Q. To make that a little plainer, on the last page of the "Bible Students' Monthly" in Exhibit 14, there appears a notice of the free Bible lecture by Mr. Hurr, and prior to January or thereabouts it was customary to print notices of that kind on the "Bible Students' Monthly"? A. Yes, sir.

Q. And in January, 1917, or thereabouts the president gave instructions that no future "Bible Students' Monthlies" or similar documents should carry the notice of lecturers by any of your preachers is that correct? A. That is the thought.

Q. And from January on, were there any "Bible

Students' Monthlies" printed containing advertisements? A. None.

Q. So that this Exhibit 14, which has been marked in evidence was published prior to January, 1917? A. Yes, our order was to discontinue them at that time.

Q. And so far as you know were any particular orders for Volume 8-4 printed subsequent to January, 1917, except the one of 9,000 in October or 10,000, which is called for by this order, Exhibit 23? A. None.

Q. You heard Mr. Miller testify? A. I did.

Q. He said something about having given that substitute, the plate of 8-4, to make up a frame of eight plates in the printing order and that he had been reprimanded for exceeding his authority and not getting the order O K'd. Have you any knowledge as to whether you were the person who reprimanded him for that; do you remember that? A. I do not recall it up until this time. It was necessary to speak to him occasionally about having his orders O K'd. Mr. Hudings is the one who would take it up with him and who had control of the stock.

Q. No reprimand was given him because of his having substituted 8-4 on account of the article which has been read in evidence? A. Unless Mr. Hudings gave it to him.

Q. You personally were not conscious of that? A. No.

Mr. Sparks: Mr. Fuller suggests that with this witness I ought to take up the question of the exhibits. Following your Honor's suggestion at the early part of the trial am I to gather that I will go through—if there is any question going to be made by counsel in summing up that this witness has not denied these various exhibits—

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The Court: If he denies them all in one question it cannot be claimed he has not denied them. One question would be just as effective as if the witness proposes to deny all knowledge that he had anything to do with the exhibits. One denial will be just as strong, just as effective, as a denial in detail, if he is going to deny everything.

Q. Have you read the indictment, Mr. Martin? A. No, I did not.

2681 Q. You have heard it discussed, however, at the meetings between the defendants and counsel? A. Yes, sir.

Q. And in a general way you are familiar with the various acts that constitute a violation of the Espionage Act? A. Yes, sir.

Q. Did you personally have anything to do with the publication of the book or any of the documents attached to the indictment? A. I did not.

Q. And were you ever consulted with reference to the publication or circulation of any exhibits, with the exception of the book? A. I was not.

2682 Q. The circulation of the book you had nothing to do with, whether the book should be circulated or not? A. No, I had nothing to do with that. I was there to carry out orders.

Q. You were here to carry out orders, and if you had made any suggestion as to whether the book should be circulated or not your suggestion would have been disregarded? A. It would be taken for what it was worth.

Q. It has been testified here that all letters came to your desk for approval, Mr. Martin, is that correct? A. All those in the office, with the exception of those that Mr. Van Amburgh wrote and signed in his office, I had nothing to do with them; and, of course, had

nothing to do with the signing of the letters that are issued from the other offices at the Columbia Heights address.

Q. And those letters include the letters of Mr. Robison sent out? A. He signed his own letters, yes, sir.

Q. So that you had nothing to do with the letters that Mr. Robison answered with reference to various forms of the draft? A. I had nothing to do with them.

Q. And knew nothing of those or any that Van Amburgh wrote along the same line? A. I had nothing to do with the replies or signing them. 2684

Mr. Fuller: Did you know anything about them at the time?

The Witness: I knew that doctrinal letters were coming in. They would come to my desk from the correspondents.

Q. And letters of that kind, that they took charge of, came to your desk in the general mail? A. Yes, sir, that is the idea.

Q. Will you describe to the Court and jury how the mail comes in there and is distributed? A. Well, all the mail delivered comes to the desk of the young lady, who distributes the mail to the different correspondents, according to state. 2685

Q. You have how many correspondents? A. Six, and the Pilgrim Department and the Colporteur Department. She separates the mail according to the group of states, as belonging to each correspondent, and the Pilgrim Department and the Colporteur Department, and then she turns them over to me and I distribute them to the various correspondents and to the departments.

Q. See if I can clear that up. You have six correspondents? A. Yes, sir.

Page 896 in the original transcript is blank.

put on the outside of the envelope to whom I wished them to go.

Q. And whatever answers were made to that letter you knew nothing about? A. No, I did not see the answers for that.

Q. You had nothing to do with the preparation of Mr. Van Amburgh's affidavit, which is attached to the indictment? A. Nothing more than to take the order which he gave me and to take it downstairs to the printer. We have a little multigraph machine there and I gave him the order for it.

Q. That was the detail of that work? A. Yes, sir. 2690

Q. Your time is entirely spent down there, is it? A. Yes, sir.

Q. You had no outside work? A. No, I am confined to the office.

Q. Do you do any preaching? A. Except Sundays I go out on the road wherever I am assigned to preach.

Q. Are you one of the regularly ordained preachers, Mr. Martin? A. I am.

Q. And on Sundays you receive your assignment and attend to those? A. I do.

Q. How many times do you preach or lecture on Sundays? A. Two; sometimes three; very seldom one time; occasionally, however. 2691

Q. And these letters, the DeCecca letters, after they were written, they did not pass through your desk or to receive your approval, or anything of that kind? A. No, they did not come to me.

Q. Those regarded in the nature of personal letters by DeCecca and they were written by him? A. Yes, sir, to his brother.

Q. And so they did not come to you for approval? A. No.

Q. Nor did copies of the D'Onofrio letter, if any were sent out, come to you for approval? A. I did

2692

Robert J. Martin

not know they were printed until they were brought up here. I never saw the pamphlets before.

Q. Have you at any time since the beginning of the war, down to the present time, done any act to impede the draft or to cause insubordination in the military forces of the United States? A. Not to my knowledge.

Q. And you make that answer without any mental reservation whatsoever? A. I have no reservations.

2693

CROSS-EXAMINATION by Mr. Oeland:

Q. Mr. Martin, are you in favor of or opposed to the war? A. The nations have a right to do whatever they want.

Q. No. Answer my question. Are you in favor of or opposed to the war? A. I am not opposed to the war.

Q. Then are you in favor of it? A. Now, just what do you mean by that? My own participation therein in combatant service?

Q. Are you in favor of the war? A. So far as the nations are concerned, yes, sir.

2694

Q. Well, do you mean by that you are perfectly willing for everybody else to fight, but not you? A. I am perfectly willing that everybody should do as he pleases.

The Court: That is not what he asked you. You answer that question.

Q. Are you willing that everybody should wage war except yourself? A. Well, I have no control—

The Court: That is not what he asked you, Mr. Martin. Now, you have sufficient intelligence and understanding to answer that question, and you understand what it means?

The Witness: Am I willing that everybody should wage war but myself? If they so desire.

Q. Well, then, it is not a part of your doctrine that other people should not engage in war? A. The consecrated Christian is not to engage in combatant service. Killing, says the Bible.

Q. Then who are the consecrated Christians? A. Those who have made covenant with the Lord, to walk in the footsteps of Jesus.

Q. Have you made such a covenant? A. I did.

Q. And you are personally opposed to the war? A. My participation therein in combatant branch of the service.

2696

Q. Do you think it is right and righteous for the nations to engage in war? A. Well, that has been their practice.

Q. No, not what is their practice? A. If they say so, yes.

Q. It is right and righteous for the nations to engage in war? A. Yes, sir.

Q. And it is perfectly righteous for the nations to engage in war, but not for an individual? A. Not for an individual who has made full consecration to walk in Jesus' footsteps, follow the Master. He is not to engage in war.

2697

Q. Then you are not opposed to the United States making war? A. No.

Q. You are in favor of it? A. If they so maintain. The Bible tells that they will engage in war.

Q. Not what the Bible tells—

Mr. Sparks: I think he has a right to say whether he is in favor of the United States being engaged in war. I think he has a right to give his reasons and not to answer a question of that character yes or no. It must be, from

his standpoint a qualified answer, and I think it is unfair to the witness to pin him down.

The Court: Well, the question is to find out how this person's heart is; what his real belief is, so I think that is a very proper question.

Mr. Sparks: I think the question is perfectly proper, but the method of his answering the question. I think if he is held down to a yes or no answer it is not proper.

The Court: He has not been held down.

Mr. Sparks: Then he can explain his answers.

The Court: Certainly, no witness has been held down to this, except to give an answer some time.

The Witness: My position is that those who take an active part in the Government, the Government affairs, have a perfect right to decide that they should go into war, if they think they have a righteous cause to urge it, just as far as they wish. But, those who have made a consecration are not supposed to kill one another. If the Government wants to go into war that is their business, I have not objected to it. I have not voted. I only voted once in my life and I abstained from voting so I would be separate from the world in those affairs.

Q. Now, coming back to my question: Are you in favor of the United States waging war? A. Yes, sir.

Q. What have you done to help her in this cause? A. Well, I bought a Liberty bond.

Q. When? A. The third drive. I do not know just when it was.

Q. After the indictment was found? A. No, sir.

Q. Just a few days before the indictment was found? A. I did not know anything about an indict-

ment being found, whenever the third drive was on, that is when I bought it.

Q. Don't you know that was after the arrest in Scranton, Pennsylvania, for selling this seventh volume? A. It seems to me it was, but I am not so sure about it.

Q. Well, aren't you pretty sure of it? A. Well, if you tell me the date he was arrested up there—

Q. Oh, I want to get your recollection? A. March 4th?

Q. Yes. A. It was subsequent to that, yes, sir.

Q. Have you spoken to anyone in favor of the war and encouraged anyone to go into the war? A. I have not.

2702

Q. Well, now, let us see what you know of this transaction. When was the first time you were spoken to about the seventh volume?

The Court: Well, Judge Oeland, he says he is willing that the United States should engage in war. The Court would like to have you find out what his belief is. He says it would be wrong for him to engage in war according to his belief, wrong for everyone to engage in war. It is sinful, it would be a great sin for him to engage in war, but what is his belief as to the rest of us?

2703

Q. Do you think it is wrong for any individual who has not consecrated himself to engage in war? A. I would not. They are not on trial for their life. For me to break my covenant would mean my extinction until—

The Court: If we are all Christians, none of us should engage in war, isn't that it?

The Witness: Yes, sir. Notwithstanding a Christian, as one who has made a covenant with the Lord,

2704

Robert J. Martin

he is not to engage in war. I ~~mean~~ by that to kill. He can perform noncombatant service.

The Court: Well, then, you are willing that we should do by indirection, we should help indirectly in an act that you believe is wrong? Are you willing to do by indirection what you wouldn't do directly?

The Witness: Only in the event of conscription. I would not do it wilfully.

Q. Would you have anybody else do it wilfully? A. Well, I never asked anybody to fight for me.

2705 The Court: What is your belief about that?

The Witness: About having anybody else do it? They should use their own judgment in the matter. If they want to go to war it is none of my affairs.

The Court: Well, do you take any different view about that than you would about any other sin or wrong anyone would do; you would rather they would not do it, but if they do it, it is no concern of yours, is that your theory?

2706 The Witness: The whole world of mankind are not now being tried for their lives. They are all sinners. They are born that way. They cannot help it. That is the reason the babies die, because of the sin committed by the father, and all men are under the condemnation of death because of the sin of Father Adam, but I am out from under that sentence of death, because of my consecration to the Lord. My belief in Jesus, and now, therefore, I am responsible for what I do.

The Court: Those of us that have not gotten out should come out, according to your belief, instead of going on continuing doing wrong, we should come out at once?

The Witness: You see they are not responsible now. They will be in the next age.

The Court: According to your belief we should all

come out immediately and do just the same as you have done?

The Witness: I believe what the Bible says and that says not any—

The Court: Have you any objection to answering this question according to your belief: We should all come out and adopt the course you have adopted?

The Witness: You will in the next age.

The Court: Will you see if you cannot get him to answer that question, Judge Oeland? Why not answer the question directly?

The Witness: You see that it would not be expressing the real thought in the matter. 2708

The Court: The real thought, to answer the question directly, would it not?

The Witness: You see, I would have to explain.

The Court: Well, you can explain, of course, to your heart's content. You could please the Court and try, I dare say the jury, to answer these questions directly.

The Witness: It would be hardly possible to say yes or no.

The Court: That is not the only kind of direct answer to give.

The Witness: You see, it would put me in a false position. 2709

The Court: No, no.

The Witness: I mean by that it would not express really my thought, you see.

Mr. Oeland: Let us get at it from this angle.

Q. You do not want your small part, as you believe, the consecrated, you do not want to restrict consecration to them, do you? A. No, no.

Q. You want it as large— A. (Interrupting.) Everybody will have to consecrate in order to have eternal life.

2710

Robert J. Martin

Q. You do not want to restrict it now? A. No.

Q. You did not want to restrict it in 1917? A. No. Consecration is to do the Lord's will.

Q. You say it is wrong for the consecrator to make war? A. I mean by that that it is wrong for them to kill.

Q. Then you do not want to restrict the number? A. No, I have no jurisdiction over anybody but myself, you see.

The Court: He has not asked you that.

2711 Q. You do not want to restrict the number, I say, to a small few? A. No, no.

Q. You want to increase that number, don't you? A. Well, I would like to see a great many consecrated to the Lord, yes.

The Court: Would you like to see us all?

The Witness: Yes, indeed, that would be lovely.

Q. And then you would like to increase it, so as to prevent other people from going into the war? A. Oh, no. I would want them to get the pleasures I am going to get in the kingdom that is open to me.

2712 Q. Do you want anybody else to join your organization in 1917? A. Yes, sir, they are welcome now.

Q. You are preaching for that? A. Yes, sir.

Q. And then when they did join they ought to be and should be opposed to war? A. Well, they would see in the Bible then that to kill anybody would violate their covenant with the Lord.

The Court: To show a person's lack of it would violate that covenant?

The Witness: Yes, sir.

The Court: To do any injury to him would be a violation?

The Witness: Yes, sir. Jesus loved his enemies, you know. He said we should walk in His footsteps.

To love those who persecute us, the doctrine of life, suffering brotherly kindness, meekness, humility and love.

Q. Now, coming back to my question, please: Then in 1917 you wanted as many followers as you could get? A. Well, in April, 1917, no, in 1917—I say yes. I will answer yes to that.

Q. You wanted them in the spring of 1918? A. Yes, up until April they could have the prize of the high calling.

Q. And those that became consecrated should not engage in war? A. They followed the Bible.

Q. Your idea was to have them follow the Bible? A. Yes.

The Court: They could not become consecrated unless they followed the Bible?

The Witness: They would have to understand some of it, yes, sir.

Q. In 1917 your idea was to get as many followers as possible, and those followers should not engage in war? A. In 1917 we were endeavoring to tell the truth.

Q. You can answer that yes or no, can't you? A. Not in violation to the truth of the mater.

The Court: Let the reporter repeat that question.

(The stenographer repeats the previous question.)

The Court: What is the reason you cannot give counsel a direct answer to that?

The Witness: May I explain?

The Court: You repeat that again, Mr. Reporter.

(The stenographer repeats the question.)

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Robert J. Martin

The Witness: In 1917 our endeavor was to get followers, as many as possible, and that they should have a full understanding of the Bible.

The Court: But if they did, and understood it right, they would not engage in war?

The Witness: In the combatant branch of war.

The Court: That is what you mean there?

The Witness: Yes, sir.

Mr. Sparks: I submit they are not responsible for results that follow preaching.

2717

The Court: No, the question was what he wanted, his notion.

Mr. Sparks: His position is that he wants everyone to understand the Bible and to be saved from their standpoint. Now, if in preaching his religion with a perfectly worthy motive it might infringe upon any act passed by the Government that would not make him guilty of any violation, or a crime, and consequently these deductions that are being drawn from his desire to preach his religion, I think are incompetent and not material to the issues.

2718

The Court: He violates—you say if in preaching his religion he violates an Act of Congress, he is not guilty?

Mr. Sparks: I think he has a right to honestly preach his religion.

The Court: In violation of the law of the law of the land?

Mr. Sparks: I cannot see, where religion is guaranteed to every man under the Constitution, how you can pass any law which will show that belief of it, how then, prevent him from teaching and believing in his religion. I have never seen any case that will go to the extent that Congress can pass a law that will infringe upon religious freedom.

2719

The Court: If there is any case that you can find in the courts of the United States that pronounces the doctrine that you have pronounced, I am not aware of that, and I would be very glad to see such a case, anyhow, because if that was the law, by entertaining a religious belief, a person could evade any act that Congress might pass. If I understand, Mr. Sparks, that has been the law of this land. A man may understand such religious beliefs as he desires, but he must not go out and preach those religious beliefs, if by doing that he is violating an Act of Congress. According to your program that you announce, why, by entertaining a religious belief a person might prevent the nation from raising any army whatever, if you permit him to go out and preach religious beliefs that it is wrong to engage in warfare. If that would be their religious belief it would be a defense to that, of course. Of course, they have the same person who could and preach and that he could follow his religious belief further and prevent anyone from joining the army.

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Mr. Sparks: The law contends that if a man does an act and does that act, accomplishes a certain purpose, you cannot hide back of your real belief. If this man was going out with the intent to impede the raising of an army, and to accomplish that purpose, he was accomplishing his intent behind his religious preaching, then he would be violating the law, and that is the only issue that this jury is going to decide, whether in what he did he intended to impede the draft law. Now, when he was preaching his religion, from a perfectly religious motive, and had no intention of impeding this Espion-

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age Law, he could not be guilty under the Espionage Act, because it must be wilfull, and if he had no wilfulness in his preaching he could not have any guilty aim.

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The Court: I would be glad to look at any authority that you announce as defining this. I have never run across it in the books. I have never come in contact with any member of the profession who advanced any such doctrine as you do. I think the law is well settled and has been well settled for a great many years that religious belief is not defense for a crime. And, that ignorance of the law excused no person. The person charged with crime cannot be held to say that he did not know the law. For a person who is preaching a religious doctrine admits to create insubordination and disloyalty and refuses to do his duty, his preaching would be an obstruction to recruiting an army. If he preaches this doctrine intending to say just what he did say, the fact that he did not know it was against the law would not excuse him, nor the fact that he thought he was serving God at the time he preached these doctrines would not excuse him, because a person may have several intentions at the same time.

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Mr. Sparks: I am speaking of including all those intentions, but the one I think he has a right to, your Honor, you and I parted company. If he has one idea—

The Court: No, that is not the doctrine you just described.

Mr. Sparks: That is what I intended to advocate.

The Court: That is not what you advocated. You stated to the Court that his religious belief, his religious freedom, was such that he

would have a right to preach these doctrines. Now, the trial is somewhat near its end and I believe that counsel for the defense would have advocated these doctrines earlier in the trial, either in chambers or in the trial here. I have heard these same claims made before. Have you a brief on this subject of the law?

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Mr. Sparks: We are going to have our requests to charge.

The Court: What I am more interested in is to find out what the books say. If any Court has pronounced any such doctrine as you have pronounced, I would like to have it now, rather than your request to charge. Have you any authorities that sustain you?

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Mr. Sparks: I do not know that there is any law under this particular act.

The Court: No, but under any act, holding that a person is excused from crime because he entertains a religious belief.

Mr. Fuller: Oh, well, that is not our doctrine. We have no proof supporting that doctrine.

The Court: You have not come across any cases calling for that doctrine?

Mr. Fuller: We are very much startled that it should be challenged. We haven't any proof upon the proposition that a man might unconsciously preach his own religious doctrines.

2727

The Court: Whatever it may be.

Mr. Fuller: His own religious doctrines without being himself responsible for what some person may do in consequence of having heard that preaching. If he has confined himself to the preaching of his religion and not actuated by a motive prior to that preaching—

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The Court: You are very much startled that the Court is of the opinion that that would constitute a crime. You are very much startled to think of that?

Mr. Fuller: For preaching to constitute a crime.

The Court: Yea.

Mr. Fuller: Very much.

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The Court: I am very much astounded, Mr. Fuller, that you should advocate, or anyone admitted to the bar, should advocate any such thing. Anyone that had been around a lawyer's office the many times you have I think, if you are so much surprised, and your associate so much surprised, I think you better stop right here and I will give you an opportunity to make a brief on this question of law. It would be a very appropriate thing to do, I think, Very.

Mr. Fuller: That has always been my conception of the religious belief.

Mr. Sparks: Can your Honor cite us to any case which holds your doctrine?

The Court: Yea, sir.

Mr. Sparks: We would be very glad to see any case—

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The Court: Just look into the Digest and you will find them.

Mr. Sparks: The Digest is rather a large place to look. I thought your Honor might have some cases.

The Court: The Courts have been charging that ever since this law that we are operating under now—

Mr. Sparks (interposing): I did not so understand they were.

The Court: You will find a few large bun-

dles of opinions of the Courts in my library on the desk.

Mr. Sparks: Your Honor has the benefit of the Government's accumulation of these opinions.

The Court: You can have them any time.

Mr. Sparks: I would like to see any case that your Honor has in mind which makes it such an open proposition that any person associated with the law office even would understand that that was elementary. Now it must be that has been the subject of judicial decisions which make it an obvious thing. 2732

The Court: Not so very many.

Mr. Sparks: One good one would satisfy us.

The Court: I am not here to make a brief for you, sir. I have referred you to these cases as elementary. It is too elementary even to talk about.

Mr. Sparks: Will your Honor give us a citation to that?

The Court: No, I will not. You go make your own brief. I told you these opinions were in there and you can have those. This is the most presumptuous thing I have heard yet during a trial to ask the Court to make a brief for you. The opinions are on the table and you are welcome to their use. You may now proceed. 2733

By Mr. Oeland:

Q. Now, you say you are opposed to war, that in 1917 you wanted to bring others to your line of thinking? A. With reference to the Bible, yes, sir, that is the main thing that I wanted to interest people in.

Q. You wanted to bring everybody you could to your way of thinking about the Bible? A. I wanted to have them believe—

Q. Now, yes or no, please? A. Yes, sir.

Q. And you know, if they did become consecrated, then they should be opposed to war? A. I knew then that anyone who would consecrate as the result of hearing the preaching, make a full, a complete consecration to the Lord, would learn to take a part in the noncombatant part of the war, would be a follower of God's will.

2735 Q. And that was your hope and expectation? A. Yes. That is, that they might make consecration, and I had nothing to do with the war part of it.

Q. You knew the other would follow as a matter of course; you wanted to have as many consecrated as possible, is that right? A. I knew that it would have—

Q. Is that all? Did you want as many people to get consecrated in 1917 as possible? A. Yes, as would hear the glorious message.

Q. And you knew when they would become consecrated they would be opposed to war, as you are? A. I never thought of war when preaching.

2736 Q. Didn't you know in 1917 that there had been a great increase in the interest in the Selective Draft? A. After the passage of the draft I read about it in the papers.

Q. Didn't you hear it discussed in the directors' meeting? A. No, I am not a director of the Watch Tower Society.

Q. Weren't you a director on the 17th of July, 1917? A. No, sir. I am not now.

Q. You did not know that there was a great deal of mail coming in there from people about the Selective Draft Act? A. I knew there were some letters coming into the office, and I read some of them.

Q. You did read some of them? A. Yes, sir, glanced over them.

Q. And you knew they were being answered? A. I supposed they were. That is what I sent them away for.

Q. To whom? A. Mr. Rutherford got most of them.

Q. Did you know that he was answering them? A. So far as I knew I supposed he was.

Q. You knew there had been quite an increase of religious fervor up to that time, didn't you? A. Well, I wouldn't say so. We usually got forty letters a day, twenty-five or forty, sometimes a few more, with reference to the Bible. 2738

Q. Didn't you know that Mr. Rutherford's mail had become so congested that he had to get the services of two extra stenographers? A. I am not conversant with the work that is going on in his office. I have my matters down below.

Q. When did you first learn about volume seven? A. The night before I went to Hammond; that was July 11th. I knew about volume—I heard about the seventh volume several years before that and was looking for it.

Q. But when did you first know it was about to be published? A. About July 11th. 2739

Q. What did you go to Hammond, Indiana, for? A. Why?

Q. Yes. A. To superintend the distribution or mailing of the volumes to the "Watch Tower" subscribers.

Q. Well, did you do that? A. The testimony previous would show that I did.

Q. I am asking you? A. Yes, I did.

Q. How long did you stay at Hammond, Indiana? A. We were there Friday, Saturday, Sunday, Monday, Tuesday, five days.

Q. What were you doing all that time? A. Well, getting the labels ready to send them out.

Q. Who was helping you? A. Mr. Donald.

Q. Who else? A. Well, forty or fifty of their employees. It took quite a number to get ten thousand out a day.

Q. Did you see Mr. Woodworth out there? A. No, sir.

Q. Did you see Mr. Rutherford? A. No.

Q. Did anybody come from your office except you? A. Yes, sir, Donald and myself.

2741 Q. And you went there for the purpose of distributing the seventh volume? A. That is the thought.

Q. What date was that? A. July 12th we left Brooklyn.

Q. How many volumes did you distribute out there? A. I think it was nearly thirty thousand. It took us three days.

Q. When did you read the seventh volume? A. Well, I read some of it on that trip on the way coming back. I finished reading it in September, 1917.

Q. Well, you knew it was being distributed after you read it, didn't you? A. Yes, sir.

2742 Q. You knew it was running up into the hundreds of thousands? A. Yea.

Q. That is the best seller you have gotten out there for a number of years? A. Well, in my recollection the other books were distributed and have been distributed for years. Volume one, for instance, has reached a circulation of four million.

Q. I didn't ask you about volume one. I said that is the best seller in recent years. You understood my question? A. Well, that was a better seller than the other volumes we were selling at that time.

Q. And you approved of everything you read in the book? A. Generally speaking, yea.

Q. Were there anything in particular that you did

not approve of? A. Well, there were some things that I did not notice particularly.

Q. I did not ask you what you noticed, I asked you if there was anything in the book that you did not approve of? A. Why, not at that time, no.

Q. And after you read it and approved it, you still continued its circulation all over the United States?

A. To the best of my ability, yes, sir.

Q. Now, what are your duties around there? A. The distribution of the work and of the help there, in accordance with the orders that I get.

Q. You attend to every shipment that goes out there? A. Oh, bless your heart, no. 2744

Q. I don't mean personally, but you scatter around and see what is going on? A. I am generally around and seeing that things are working smoothly.

Q. And you knew that DeCecca was there? A. Yes, sir.

Q. Who employed him? A. What is that?

Q. Who employed him or overlooked his work? A. He was under my supervision with the rest of the office help.

Q. Did you know he was attending to the Italian correspondence? A. Yes, sir, I did.

Q. That is what he was put there for? A. Exactly. 2745

Q. So in ordinary events any Italian correspondence coming about the Selective Draft would go to him? A. Yes.

Q. You knew that plan of arrangement? A. Well, I could not read Italian at all.

Q. That is what you intended him to do? A. Yes, sir.

Q. There is no doubt about your intention on that? A. I wanted all the Italian mail to go to him.

Q. Well, did you attend to any of the printing? A. You mean for the establishment?

Q. Yes. A. Well, that is when the orders were brought to me for O K. Certain orders, forms that were necessary and some of the pamphlets.

Q. Who looked after the orders for shipment of "The Finished Mystery"? A. For shipment?

Q. Yes. A. That was one included in the general matters over which I had charge. It was only incidental. That is there were six volumes, the first and fourth and the hell booklets.

2447 Q. Didn't you sell 100 of "The Finished Mystery" to where you sold one of the other volumes? A. I presume that would be about true.

Q. Well, now, you did know of the D'Onofrio letter, didn't you. Some call it D'Onofrio and I call it D'Onofrio. A. Now, is that the one that was out in the "Watch Tower"?

Q. No, the one that was read at the meeting some time? A. After having my memory refreshed, I remembered having read that letter in the dining room.

Q. And you knew that related to conscription? A. Yes, it is apparent from the reading of it.

Q. Well, you knew it at the time? A. Yes, sir.

Q. And you knew that DeCecca was attending to that end of it? A. Yes, sir.

2748

Mr. Fuller: What do you mean by "that end of it"?

Mr. Oeland: That is the Italian end of it.

Q. You knew there was a transcript of the Italian letter? A. Yes, sir, he told me so.

Q. And you knew he was looking after the Italian end of the conscription? A. Yes, sir, he was handling all the Italian mail. If there was any conscription in there he would get it.

Q. You knew that? And as to this particular letter you knew he was handling that? A. Yes, sir, I knew that.

Q. And you knew there had been a translation of it made from Italian into English? A. Yes, sir.

Q. You knew it had been mimeographed; many copies made of it? A. No, I did not.

Q. Did you know that was a mimeographed copy that was read at the meeting? A. Well, I don't know that is a mimeographed copy. It is just a carbon copy.

Q. You knew there were carbon copies made? A. He made some sort of a translation on a typewriter and handed it to me and I read it.

Q. When did you read it? A. I could not say. I do not remember. Whenever it was it was read at the table, and I read the letter there. 2750

Q. Did you know that was being sent broadcast? A. No, that was the last I heard of it was when I read it there, as I had many letters.

Q. You didn't know of any objection to that letter or its distribution? A. I did not know about its distribution.

Q. You knew it was up to DeCecca to do what he wanted to with it?

Mr. Sparks: I object to that. There isn't anything to that. I object to the form of it.

The Court: The form is admitted. 2751

Mr. Fuller: I do not believe there is conventional meaning attached to the expression "it is up."

Mr. Oeland: I think that is rather inelegant and I will change it.

Q. Well, you say you knew, and it was with your permission and intention that DeCecca was handling the Italian end of the correspondence? A. Quite so.

Q. And you knew that copy had been made and a translation made of the D'Onofrio letter? A. That is the only way I could read it, yes.

Q. And you did read it; you never put on any restriction on DeCecca distributing that letter as he saw fit? A. He did state to me about its distribution.

Q. Did you put any restriction on his circulating the letter? A. None whatever, no.

Q. You had known that he had received a communication from Italy, known as the Cumiletti letter? A. Yes.

Q. You knew that? A. Yes.

2753

Q. When did you learn that? A. That is the one that was in the "Watch Tower." That is the first time I saw that letter.

Q. And that was so interesting that you had it published? A. I had nothing to do with its publication.

Q. You saw it in the "Watch Tower"? A. I read it, yes, sir.

Q. And you knew the "Watch Tower" was being published right there in your building and under your management; I mean the mechanical part of it? A. No, it is not printed there.

Q. Well, you were paying for it from there? A. The editorial committee handles that.

Q. You knew it was being paid for by the "Watch Tower"? A. Yes, sir, I knew that.

2754

Q. And you are connected with the Watch Tower Bible & Tract Society as the manager? A. I was.

Q. Did you ever talk to DeCecca about the Cumiletti letter? A. I did not.

Q. Did you ever restrict him in the distribution of that? A. I did not. He never brought the matter up to me.

Q. Well, you knew it was published in the "Watch Tower"? A. Yes, sure..

Q. And you knew that you kept the "Watch Towers"; that you kept the reprints for distribution whenever a call was made for it? A. Yes, we had them there.

Q. And you knew that, after June, 1917, the issue of December, 1916, you knew you had the December issue on sale there for general distribution? A. Well, it was there for sale.

Q. And you knew it was being sold? A. I could not say that. I did know we had numbers for fifteen or twenty years back.

Q. Wasn't it part of your duty to see if any number was running low that it should be reprinted? A. We did not reprint "Towers" except one or two issues that were for distribution. The one that contained volume one, but we never reprinted back issues of the "Towers," to my knowledge.

2756

Q. You are the man that looked after the stocks to see if any issue was running low? A. Are you talking about the "Watch Tower"?

Q. Yes. A. But I was there simply in charge of that stock in a general way. When the stock of "Watch Towers" is exhausted that ends them. We do not get them any more, generally.

Q. You have a lot printed and kept for distribution? A. There is always more printed than what we use to supply the regular subscribers, and those are kept on hand.

Q. Don't you know that the "Watch Tower" printed the Cuminetti letter in March, 1916, and again reprinted the same letter in the December issue of 1916? A. I do not.

2757

Q. I got those dates wrong. December, 1916, and March, 1917? A. Did I know that letter was reprinted in there?

Q. Yes, in the issue of March, 1917? A. I knew it at that time, but I did not charge my memory with this particular letter; that did not impress itself on my mind. You see, we have twenty-four issues a year, and I do not remember all that they contain.

At this point a short recess was taken.

After recess.

ROBERT J. MARTIN resumed the stand.

Cross-examination resumed by Mr. Oeland:

Q. I hand you Exhibit 30 for identification. Did you ever see that before? A. Only here in the trial.

Q. Was that ever published by the Watch Tower Bible & Tract Society? A. Well, it may be if that is the letter that was in the "Tower." I would not say.

2759 Q. Well, assuming this is the letter? A. The pamphlet was not published by the Watch Tower Society.

Q. How do you know? A. Well, it never came to my attention. It was not with my own knowledge.

Q. You had charge of all the publishing and printing? A. Of the printing orders, that is, I would O. K. them.

Q. You did not O. K. this one about Volume 8, No. 4? A. It got through without my O. K.

Q. Then it might have been published by the Watch Tower Bible & Tract Society without your knowledge? A. Well, I do not think it was.

Q. Did you see it there? A. I did not.

2760 Q. You knew—you never saw that in the office there? A. Not to my knowledge and present recollection, I have never seen it there.

Q. Was your attention called to it by Mr. Converse over there on the day that he was in the office? A. Not that I recall. We had a few words together, not many however.

Q. Your statement is that you never saw that until it was called to your attention in the court? A. Not to my knowledge.

Q. You take it to be the Cuminetti letter? A. I see that word in there, that is what it is.

Q. Look at the bottom of it there on the third page?

A. Yes, sir.

Q. "Watch Tower," December 15, 1916, p. 386. That is in good English, isn't it? A. Yes, sir; that is evidently the place from which this quotation was made, I would take it. He copied that out of the issue of the "Watch Tower," December 15, 1916, p. 386, that would be my understanding of it.

Q. But you are still of the opinion that it was never published by order of the Watch Tower? A. I am, that is simply a reference.

Q. Do you know anyone else that would be interested in copying abstracts from the "Watch Tower"? A. Oh, quite a number of people find things in there that they copy. That is put on post cards.

2762

Q. So that don't help then any that "Watch Tower," December 15, 1916? A. No, that simply shows where the quotation was made from, its origin.

Q. Well, now, do you say that the "Bible Students' Monthly" order of printing was changed after what time? A. In January, I think, January 1st, along in there sometime.

Q. What year? A. 1917.

Q. What change did you say was made? A. Well, they did not print—the order came to us not to print any more "Bible Students' Monthly" to be used for advertising public meetings; the form similar to that one which you showed me there, advertising the meeting.

2763

Q. Well, what do you mean by that, exactly; that you should not print any more? A. Well, this is not the one to which I had reference.

Q. Well, that is the "Bible Students' Monthly"? A. Quite so.

Q. Now what— A. In the one I had reference to it had an advertisement of a public meeting about one of our brethren on this lower half of the last sheet.

2764

Robert J. Martin

Q. You did not mean by that that the issues were not to be reprinted, but changed in the advertisement?

A. That the "Bible Students' Monthly" were not to be printed any more for that purpose; for advertising public meetings.

Q. Well, they were to be printed for any purpose? A. The regular issues were continually being reprinted; that is certain ones that were published.

Q. And this was reprinted evidently after you got out : seventh volume? A. I am led so to believe by that reference to "The Finished Mystery."

2765

Q. Because it advertises there "The Finished Mystery"? A. It must have been.

Q. So whatever change there was in printing the orders of the Watch Tower Bible & Tract Society it did not change the substance that was printed in them, just the advertisement of the meeting? A. Well, we had two kinds; one for advertising a meeting similar to the one that you showed me there, and one that was used for the distribution; there was one that was used to advertise meetings and that was discontinued in January.

Q. As they came? A. Certain ones; yes, sir.

2766 Q. And did you have any control over the distribution of Volume 8, No. 4? A. No, not particularly.

Q. Well, unparticularly, if I may use that expression? A. I had control of it in the sense that it was there.

Q. And it was there for distribution at the Watch Tower? A. The same as all other "Bible Students' Monthlies."

Q. Did you have a lot of those copies for distribution in October, November and December, 1917, Volume 8, No. 4? A. Well, I understand that this one, 8-4, was reprinted in October, 1917.

Q. My question is did you have a lot issued there

for distribution? A. Not to my knowledge I do not know.

Q. Then you did not reprimand Mr. Miller for printing some when you already had them on hand?

A. Not that I recall this particular instance you see.

Q. Well, I am asking you about this particular instance; whether you reprimanded him telling him the bin was full and that you had so many on hand that it was unnecessary to print any more? A. Mr. Hudgings—

Q. I did not ask you that? A. No, I did not.

Q. You did not know that Mr. Van Amburgh had printed a large number of affidavits that were to be used in the Selective Draft? A. He brought a copy and requested a number of copies, and I had them made.

2768

Q. You knew by that there were a great many being prepared? A. I knew there were.

Q. Do you know what use he was making of them? A. Well, I presume he wanted to send them out, but I did not inquire into the particulars; that was a matter outside of my province. I did not concern myself with it.

Q. Well, you knew that relative to the Selective Draft Act? A. It was apparent from the reading, yes.

2769

Q. What did you do with them? A. We have a little machine downstairs.

Q. Have you got an Italian machine downstairs? A. English type.

Q. So you did order those printed? A. Yes, sir.

Q. How many did you order printed? A. I remember that Mr. Van Amburgh said a thousand, I think he said to start with eight hundred or something like that.

Q. And they are a large number? A. Well, that is quite a large number from one viewpoint.

Q. And you knew they were for general distribution? A. For such distribution or disposal he intended to make of them, but I had no concern about them.

Q. But you knew it was some matter about the Selective Draft? A. Yes.

Q. Did you ever know that Mr. MacMillan had some affidavit in reference to the Selective Draft? A. No, I did not.

Q. Do you know Mr. Mayberry? A. Yes, sir.

2771 Q. He was one of your aids? A. He was one of the Bible students that assisted around there.

Q. Do you know when Anderson came to the place after leaving Camp Upton? A. Did I know that he came there?

Q. Yes. A. I saw him there, yes.

Q. Did you talk with him? A. I believe not.

Q. How long did you see him there? A. I saw him at one meal.

Q. What was that, evening meal or noonday meal? A. I do not recall now.

Q. Do you know he was staying there in some room? A. No, I did not.

2772 Q. You just saw him there at one meal? A. Yes, sir.

Q. Did you know then he was away from Upton? A. Well, that was quite apparent.

Q. Did you offer any information to any of the military authorities as to where he was? A. None of them asked me.

Q. Did you offer any? A. I had no occasion for it.

Q. Is your construction of the law if you know about a deserter you are to keep quiet about him? A. I did not know he was a deserter?

Q. When did you learn it? A. Well, you brought it out here when he was on stand.

Q. Well, whether he had deserted, you knew that

he had left there without permission? A. Yes, that is what he said, I believe.

Q. You did not know about that when you saw him up at the Watch Tower? A. I made no particular inquiry. I was not interested in it.

Q. Did you know he was from Camp Upton then? A. I think he had a uniform on, although I am not sure.

Q. Did you know of Mr. Rutherford making any affidavits about the Selective Draft Act? A. Not to my knowledge.

Q. You never saw any he made, any blanks prepared for him? A. I do not recall. I believe not. 2774

Q. And you did not see any paper by anyone except Van Amburgh? A. That is all I saw. Those were made for him.

Q. Do you know that Mr. Van Amburgh and Mr. Robison were writing to these applicants, or men who were prospective United States soldiers? A. I presumed they were answering those letters.

Q. You knew they were getting letters to answer? A. I sent them to them.

Q. And you knew they were answering letters? A. To the best of my knowledge; yes, sir.

Q. Did you overlook the carbon copies of the letters? A. They never came to me. 2775

Q. Didn't you stamp the original; you had a stamp for the Watch Tower Bible & Tract Society? A. Yes, sir; I never stamped their letters.

Q. What did you use your stamp for? A. All the letters that came from the correspondents. Mr. Van Amburgh's department was entirely separate and distinct from the Tabernacle office.

Q. Did you hear Mr. Robison's testimony that he sent his letters up to be stamped to you? A. He never sent any letters to me to be stamped.

Q. He did not? A. He did not. He worked up at the house. You know that is five blocks away.

Q. Where did you work? A. Five and a half blocks away at the Hicks Street address.

Q. You saw him at times, three times a day? A. Quite so, usually so.

Q. How would you send letters up to him to be answered? A. Well, we had a wire basket on top of the desk, and in that I would deposit the letters that were intended for his perusal and answer.

2777 Q. How would you determine what letters he had to answer? A. Well, he handled all doctrinal matters and such things as were outside of the routine business.

Q. Who told you to refer doctrinal matters to him? A. Mr. Rutherford during his absence.

Q. When? A. Shortly before he went away my instructions were that—

Q. When was that? A. You mean in 1917?

Q. Any time? A. Any time—

2778 Q. Any time when he told you to refer these to Robison? A. Well, it was shortly prior to the period that Mr. Robison answered those letters. He came here, I believe, around Christmas time in 1917, and then I was told to give him some of the letters for reply.

Q. Did you think the inquiries about the draft were doctrinal matters? A. Well, they were what we considered as such. We did not have one title for that kind of letter and another title for another letter asking advice about marriage or explanation of Psalms or Leviticus. They all went together.

Q. Did you have a special file for military letters? A. I presume he did. I did not file letters.

Q. Not what anybody else had, but would you consider an inquiry about whether or not a man should enlist in the draft a doctrinal matter, that is what I

want to get from you? A. We considered that in that general class in the distribution of the mail.

Q. No, I did not ask you what we considered, I asked you what you considered? A. I considered that in the doctrinal class of mail. I considered doctrinal mail all outside of what I handled.

Q. And doctrinal mail was being handled for the purpose of bringing people in the fold? A. Well, giving them advice.

Q. As to how to get into the fold? A. Yes, sometimes if they inquired, I presume that was it. There was quite a number and variety of subjects, you know.

2780

Q. Well, wasn't your idea in the doctrinal letters to teach people more faith or to become fully consecrated? A. Some of them, I presume would ask that.

Q. And a man who was a prospective draft man should become fully consecrated and then he would not go into the army according to your doctrine? A. That would be, of course, dependent upon his understanding of the Bible. I would have no control over him.

Q. You expected him to believe the Bible according to your doctrines when you answered doctrinal letters? A. I would like to have him; yes, sir.

2781

Q. And the logical result of that would be that he would refuse to fight? A. That was such an infinitesimal matter in connection with the whole business, I gave no thought to it at all.

Q. And you think the carrying on of this war is so incidental it is a matter of no concern? A. As far as myself was concerned.

Q. That is your view of it? A. It is a matter of the nation—

The Court: That is not quite responsive, Mr. Martin. Just tell counsel what your view is.

Q. Do you consider the carrying on of the war so incidental that you took no concern about it? A. So far as my distribution of the mail was concerned.

Q. No, no. I am talking about at any time. A. The war is such a big proposition that we could not help but think about it and have some concern surely.

Q. You knew these doctrinal letters were to help bring people into the fold? A. To give them advice.

Q. More light? A. Information; yes, sir.

2783 Q. The purpose of giving it was to increase their feeling and make them fully consecrated? A. Usually so, not exactly that, but if they so inquired, yes.

Q. And you knew you were getting letters from Selective Draft men? A. I knew there were some coming in.

Q. And you hoped by answering those letters, you would make men fully consecrated? A. Oh, that would not do it. It takes a lot more than that.

2784 Q. Did you hope that would help them? A. That only would be the consequence or the result of their first understanding. If they understood that Jesus was a ransom, then consecration would be incidental to that. We do not tell them they must not do something. The main thing is to tell about Jesus and what He did and His ransom price, and they will be brought out of the graces, and have an opportunity to know Him. That is the big thing. Now, we were not thinking about the war. We were thinking about the Bible. It is the Bible, the definite plan, and that is the thing.

Q. What did you think these men were writing for if you were not thinking about the war? A. Well, they were after some information, I presume.

Q. Didn't you expect them to follow the information they got? A. Well, that is for them.

Q. And didn't you expect them to become better enlightened, if I may use the word, as to your views and what fully consecrated meant? A. From Mr. Robison's replies—

Q. I am not asking what he did, I am asking what your idea was? A. When the letters came there and they were about the draft, I turned them over to him for reply. I did not concern myself about the reply. I was not figuring out what he would answer to each one.

Q. I am trying to get what was in your mind. A. That part of the matter was very incidental.

Q. Then the draft matter and the whole war was purely incidental? A. As far as my work was concerned with the letters and the Tabernacle arrangements, and the work there.

2786

Q. You knew the letters had increased a great deal? A. Well, there was, perhaps some increase on account of these letters.

Q. You noticed the religious fervor in some classes of people was being increased at least? A. I do not know that our brethren, perhaps, that were subject to the draft would inquire about their standing under the law. It was perfectly—

Q. Were you circulating the seventh volume with the hope that it would increase religious fervor? A. The seventh volume was not circulated for any such purpose as that. It is not a doctrinal book; it just explains Ezekiel and Revelations.

2787

Q. That would not help a man to become consecrated at all? A. Oh, no. He could get the truth out of the other six volumes.

Q. Could he get there at all with the other six? They have been coming there all the time, since Jesus up to the present time.

Q. Then you are not like Mr. Woodworth who views that all preachers are hypocrites? A. I could not say from personal knowledge; the Bible says—

Q. What is the truth?

Mr. Fuller: I object to that. There is no such evidence.

Q. Well, I will put it preachers of the gospel in the aggregate are the greatest hypocrites known? A. I believe the Bible and the Bible says so. That is all I know about it. The Bible says they are hypocrites.

RE-DIRECT EXAMINATION by Mr. Sparks:

2789

Q. I show you the "Watch Tower," Mr. Martin, of December, 1916, and ask you to look through that and see whether the Cuminetti letter was published in that issue? A. In the hasty glance through it I do not see it.

Q. Well, do not hastily look through it, look through it very carefully, see whether as a matter of fact it was printed there or not? A. I do not see it. I do not find the Cuminetti letter here.

Q. You have looked through it three times? A. Yes, I have, without reading every word.

Q. But you could find out by looking at it? A. I would. It is usually customary to put them right here on the back page here, see.

2790

Q. On the assumption that the Cuminetti letter was printed in the December, 1916, "Watch Tower" is due to this printing on the bottom of Exhibit 30. Now, I ask you to look through the "Watch Tower" and see whether you can find a poem under which that date of the "Watch Tower," December 15, 1916, page 386, is printed? A. 386, I see.

Q. Yes, page 386? A. Yes, I see that. That is evidently an Italian translation of this given here.

Q. And that is the thing that was printed in the "Watch Tower" of December 15, 1916, at page 386, isn't the Cuminetti letter at all but this Italian poem? A. I see it is not the Cuminetti letter, but is a transcript of this article here headed "My morning resolve."

Mr. Sparks: Can we have that straightened on the record now, that the Cuminetti letter was not printed in the December 15, 1916, "Watch Tower"?

Mr. Oeland: I was going by what Mr. Robinson testified that it was, that is what led me into it. I do not know anything about it. He said it was in the December number and again reprinted in March. If it is not in there, I have no desire to have it in. I was going by his testimony rather than by any knowledge of my own. He may have been wrong about that same thing.

2792

Q. I call your attention to page 396 of the "Watch Tower" for December 15, 1916, and ask you if this is a notice of the fact that after that date no advertisements would be carried in the "Bible Students' Monthly"? A. That is right. I find it here so stated.

Q. Will you read it into the record, please? A. It is headed "Advertising public meetings owing to the very high price of paper, the 'Bible Students' Monthly' will not hereafter be used to advertise public meetings for pilgrims and others. We would suggest the use of cards and newspaper columns instead of. We will glad to furnish cuts of the preachers as usual." That is where I got my information.

2793

Q. So after that date, which is December 15, 1916, no "Bible Students' Monthlies" were published bearing advertisements? A. None.

Q. And that is the way you are able to state that none of the volumes 8-4 were published after that date? A. Yes, sir; that is my information.

Q. Mr. Oeland showed you a "Bible Students' Monthly" which he asked you was published after December, in 1917, without specifying the date. I believe he handed you Exhibit 12, which is Volume 9, No. 1. That does not contain the true soldier ar-

2794

Robert J. Martin

ticle? A. 9-1 does not contain that article with having reference to a soldier.

Mr. Fuller: That is the Jack London letter, you mean?

Mr. Sparks: Yes.

The Witness: Yes, sir; that is not there.

Q. So far as this issue goes it has no application to the Jack London letter? A. None whatever.

2795

Q. And this Cuminetti pamphlet, Exhibit 30, you are asked whether that was printed by the society and you said it was. If it had been printed by the society you would have found it necessary to pay the bill? A. Yes.

Q. And no such bill has ever been paid by the Watch Tower Bible & Tract Society? A. None that I know of.

Q. In cross-examining you Mr. Oeland used the form of question which said in substance that you approved of the DeCecca letter. Did you ever approve of the DeCecca letter? A. I did not.

Mr. Oeland: I did not ask him about the DeCecca letter at all. I asked him about the D'Onofrio letter.

2796

Q. Did you ever approve of the D'Onofrio letter? A. I did not. I simply read it.

Q. You were sent to Hammond, Indiana, for the purpose of sending out the seventh volume? A. Yes, sir; I did.

Q. And up to that time you personally had not read the seventh volume, and did not know its contents? A. I did not.

Q. Did you receive a check for \$2,500 signed by Mr. Pierson, Mr. Martin? A. I did.

Q. And you heard Mr. MacMillan's explanation of that? A. I did.

Q. And you heard Mr. Van Amburgh's statement in reference to that? A. Yes, sir; here on the stand.

Q. Mr. Van Amburgh was mistaken as to the fact of that? A. So far as I know. I was not conversant with the arrangement at all. I handled the check.

Q. That check was not for your expenses to Hammond, by any means? A. It did not take \$2,500.

Q. And you simply took that check to Hammond and turned it over to Conkey & Company? A. I turned it over to the treasurer of the Conkey Company.

Q. That bought the stamps necessary to send out the seventh volume? A. Yes, sir; they paid for the stamps that were necessary to send out the volumes. 2798

Q. And that entire \$2,500 was used for that purpose? A. And some more.

Q. And you personally made that up? A. I did make up some out of my own pocket to clean up the postage that was required.

Q. You say you were trying to make converts; is that exactly true, Mr. Martin? A. No, if you will let me explain.

Q. I will be glad to let you do that. A. We simply teach the Gospel and the good things of the kingdom, telling how Jesus came to give a ransom price for all, and during this Gospel age all those who believe in Him as the ransom price, acting upon that make consecration of themselves to the Lord to follow in His footsteps, they will be in the kingdom in the ages of eternity. The rest of the world of mankind, all those that do not make consecration, they will be resurrected during the first one thousand year period of the Kingdom of Christ, and then they will have an opportunity to show their need of God, and their coming up there in the millennial age will be resurrected, and all who have not up to the present time come to a full understanding of God's covenant plan of the ages 2799

cannot here approach to tell them about the good news. A great many that we talk to, the vast majority, some of them think we are foolish. The majority of them like it when we tell them about the time they are coming out of the graves and going to have a perfect peace, perfect bodies and straight heads and going to have a knowledge of God's plan. They like that. For some of them their ears are opened, their eyes are anointed, they hear and understand about the high calling of age, and as Jesus did, they might sit with God in the throne. If they hear that and appreciate that call, then they make a consecration, but Jesus, Himself, said that not everybody would know about that, not many were called, just a few of them. You see, the majority of them do not appreciate when they hear it, it is only those who come to a complete comprehension of God's plan that now makes consecration like Jesus did. The rest of them will have their opportunity in the next age, all of them.

2801

Q. All that you are doing is to spread the truth as you see it? A. Yes, sir.

Q. And those who accept it and become consecrated why, they get the benefit. Do you make any solicitation to anybody to join with you in this movement?

2802

A. No.

Q. They act entirely voluntarily? A. Yes, sir; approach the Kingdom. Jesus said, "Approach the Kingdom that thy Kingdom come." That is what we talk about.

Q. You were asked some questions about other people fighting; you said that consecrated Christians would fight, then you were asked a question about the rest of us Christians whether we could fight or not. Have you any explanation of that that you wish to make? A. Just my understanding of the true Christian is one who has made a full and complete consecration to walk in the footsteps of Jesus, such a one as that.

Q. Let me interrupt you there. Those are the only people that you claim have no contact or connection with earthly matters and who are relieved from the burden of engaging in war and such earthly past-times as that? A. That is the only class, and that is not many.

Q. How does the Bible specify how many that number will be? A. It refers to them as a little flock. Jesus said, "Fear not, little flock." He was not talking to everybody, but just those who make consecration, not everybody made consecration, very few of them.

2804

Q. Did Pastor Russell interpret the number of that little flock?

Mr. Oeland: That I object to.

The Court: I think I will allow that. I know the Government has no exception here, but I think we better allow that just the same. Proceed.

A. The number of those who will be the Bride of Christ, joint heirs of Jesus, heirs of God occupying the throne in the kingdom will be, according to Revelations, 144 thousand and one. But, understand me, that is just the elect class.

2805

Q. That is the consecrated Christian class? A. Yes, sir; who are successful in making their calling and election sure; yes, sir.

Q. And that class has been in process of selection ever since the death of Jesus? A. He was number one.

Q. And has been going on ever since? A. Ever since that.

Q. You do not claim that only people who are in your belief constitute that class? A. Oh, no, no.

Q. You do not know and you are not presumptuous enough to say that you are or will be one of

that class? A. I just hope to be, there may be some Episcopalians, Presbyterians and I hope some good Catholics there, all the way down through the ages.

Q. And your ambition in life is to make sure for your election in that class? A. Yes, sir; I am working just as hard as I can for that.

Q. Whether you reach that goal or not, you do not know? A. No, I do not. I am like the Apostle Paul in that respect. I could not say.

2807 Q. So the criticism passed upon your purchase of the Liberty bond after some person was arrested in Harrisburg or Scranton, was the arrest of that person, whoever it was in Scranton, your motive in purchasing that bond? A. The bond—the two things are disjointed entirely. They had no connection in my mind. I bought the Liberty bond because they were for sale at that time. I did not have that man in Scranton in my mind at that time.

Q. The first you learned of this indictment here was one day about twelve o'clock, when you were asked to come up to this court to plead? A. That is the first time I knew of it.

2808 Q. The Marshal of the United States Court for the Eastern District notified Mr. Rutherford that an indictment had been found against a certain number and he got them all together and came up to this court? A. Yes, sir; Mr. Power was the man.

Q. That was the very first intimation that you had that your conduct or actions in reference to the Espionage Act or this war was ever questioned in any manner? A. Absolutely the first.

Q. And when Mr. Converse, the man that handled this raid on the Bethel Home and the Tabernacle, whatever information he required of you you gave it to him freely? A. Yes, sir.

Q. You threw the place open to him? A. It was his for examination and search.

Q. Whatever he would ask for you voluntarily turned over? A. Yes.

RE-CROSS EXAMINATION by Mr. Oelond:

Q. Well, you did know something about the Government's interest in this matter before your indictment, when Mr. Converse was up there? A. I knew it.

Q. That was what time? A. I heard him say he was there February 27th. I presume that was the time I learned it. It was a surprise to us.

2810

Q. You knew it then? A. Yes, I saw him right there.

Q. And you knew he was there making an investigation of certain acts? A. He showed me his credentials; yes, sir.

Q. Then you did know something about it before the time of the indictment? A. I did not know I was going to be in it. He asked me about my indictment. I did not know anything about my indictment.

Q. But you knew the Government was making some investigation? A. Yes, I knew it when they came down there.

Q. Well, now, I hand you the issue of March 1, 1917, and ask you if you saw the Cuminetti letter in that issue? A. I see the words signed by Corelli. That is the Cuminetti letter, I see by looking at it.

2811

Q. That is in the issue of March 1, 1917? A. That is right.

Q. Now, Mr. Sparks asked you the question that there was no reprints of this "Bible Students' Monthly," after the advertisements were stricken out. That is not correct, is it?

Mr. Sparks: The 8-4 I was referring to.

A. There was no reprints of those; they were for advertising purposes.

Q. But the striking of the advertising matter, the body of the sheet would be reprinted and was reprinted? A. Well, I could not say. You see, we had 130 of some of those there.

Q. Don't you know there were some reprinted in October? A. Yea, I do. It was brought out here. I saw the order.

By Mr. Sparks:

2813 Q. Do you mean to say that you have 130 different "Bible Student Monthlies"? A. Yes, of various kinds, it may be more than that. It is only one of them.

Q. That is, of the different volumes and numbers they run into 130? A. I think more than that, Mr. Sparks.

The Court: Why it is published every month, isn't it?

Mr. Sparks: You see these things are gotten up in the plates and they are not printed all—

2814 The Court: Don't they get a new edition every month, it is called a monthly?

The Witness: Yes, that is the practice, we have in foreign languages.

Q. Do you print a new one every month, or go back and use the old ones again? A. Yes, sir, at the discretion of the proper parties, to determine what they will do, we simply reprint. That was a provision of the will of Pastor Russell that they should be reprinted partially—

Mr. Oeland: I would object to the will.

The Court: Well, I allowed that the other day and you must be consistent.

Q. So that the "Bible Students' Monthly"—

The Court: I want to say that it is the purpose of the Court to give the greatest latitude here. I want this to be as wide as possible.

Mr. Oeland: I understand we are not trying these people because they followed Pastor Russell. That is not the purpose of the Government charge. It is only a violation of certain laws that they did, not what they did. That is the only reason I made the objection.

The Court: One question for the jury to decide would be what was their intention. Now, if the defendant entertains several intentions at the same time, it seems to me that the Court will allow the greatest latitude for the defense to show those different intentions, because it is finally a question of fact for the jury. They have the various intentions they made, and they may throw light upon the circumstances of the situations. It may not. I am afraid it would be error to exclude it. Now, you may proceed, Mr. Sparks.

2816

Q. When a plate for the "Bible Students' Monthly" was made up and the issue run off, that plate was not destroyed, but was kept in stock, and then at any future time you would reprint that particular issue?

2817

A. That is the thought.

Q. And of those plates that you still have on hand, you say they run over 130? A. Oh, I am just guessing at that.

Q. But approximately? A. Yes, counting the various languages, it is printed in thirty different languages, I believe. I do not refer to that particular one, but the "Bible Students' Monthly" as an issue.

By Mr. Fuller:

Q. This doctrinal correspondence that you speak of, or by doctrinal you mean questions that come from correspondents with respect to some of the meanings of some of your teachings, is that right? A. That is right. Interpretation of the Bible according to the "Watch Tower" and Studies in the Scriptures.

2819

Q. How many other classes for the distribution of mail do you have, for the distribution of mail, besides doctrinal classes? A. Three departments, and Mr. Van Amburgh and some mail correspondence with the bank.

Q. That would be a separate division of the mail for each one of the six correspondents? A. Yes, sir.

Q. And a separate definition for each one of the six departments? A. That is right.

Q. And a separate one for Mr. Van Amburgh? A. That is right.

Q. Making ten different departments outside of the doctrinal mail? A. That is it exactly.

2820

Q. And if any mail came in outside of the doctrinal division— A. That is correct, and if it did not belong to any of these ten divisions then it would be put in the doctrinal mail. They handle the routine stuff, orders for books and Scriptures and so forth.

Q. These general divisions practically included all the routine stuff? A. Yes, sir.

Q. And if they came outside of that, you would include it in the doctrinal mail? A. Yes.

Q. And it was put into that doctrinal form because it required some different form than the routine mail? A. That is exactly the thought.

Q. So what you call doctrinal division, the mail is to include doctrinal and other matters? A. Yes, everything that was not routine.

Q. You stated in answer to one of the questions

here that the contents of the seventh volume of "The Finished Mystery" was not of a character that would induce such a knowledge of God's result of consecration, is that right? A. Well, generally speaking, yes.

Q. The portions of the Bible reveal God's will as conduct of the people on earth not found in these books of the Bible, that is Ezekiel and Revelations?

A. Yes, you get that outside of those two chapters.

Q. And any reference in either of these two books to God's will, with respect to earthly conduct, is purely incidental and prophecy? A. That is the explanation of the prophecy.

2822

Q. Now, these six volumes that you have referred to contain an interpretation from Pastor Russell's point of view, of the instructions with respect to God's will as they are found in the Bible, is that so? A. That is so.

Q. And they are complete? A. They are complete.

Q. And a reading of these six volumes, would that be sufficient to apprise a student of God's purpose of what it was that was required of him, the consecrated follower of Jesus? A. That is correct.

Q. And it would not be necessary to resort to the seventh volume to elucidate any of these questions? A. That is right.

2823

Q. Now, the seventh volume was confined, except for a possible incident, to the interpretation of prediction made two thousand or more years ago, of what was going to happen in the future? A. Yes, sir.

Q. So that the distribution of the seventh volume would have no appreciable effect in the way of creating any rights to or prejudice to a consecrated Christian, is that so? A. It was proper for the church, in her time of direst need, when they saw these things taking place, they would know they were foretold be-

forehand in the Scripture, and seeing these things come to pass, to rejoice.

Q. And the seventh volume was regarded by the followers of Pastor Russell, as a description of the prophecy, is that so? A. That is so.

Q. And they wished to apprise people generally that God's prophecy had been vindicated? A. In the beginning of 1914 they had, particularly.

2825

Q. Was it any part of their purpose as far as you or I read in that purpose or were cognizant of that purpose by the distribution of the seventh volume to make consecrated followers of the Lord? A. I think—well, I do not know what they had in mind, but to the best of my knowledge and belief, they would have been—

Q. That is not in your mind at all? A. No.

Q. So the seventh volume was not used for that purpose? A. No.

Q. You say you saw Anderson down at one of the meals at the Bethel Home? A. I noticed he was there but when and for how long I could not say.

2826

Q. Did you have any knowledge whatever of the circumstances attended, did you at that time have any knowledge of the circumstances attending his leaving camp? A. No, sir; I did not.

Q. Did you assume he had a perfect right to be there when you saw him there? A. Yes, surely.

Q. Was there any fact or knowledge in your mind that his presence there indicated there was any violation by him of any duty that rested upon him to perform in the army? A. No.

Q. You hadn't any thought, then, of any other soldier you see here in the court room? A. No.

By Mr. Oeland:

Q. I understand you to say that the seventh volume was not put out for the purpose of bringing any-

body in the fold at all? A. That was its prime object. Of course, if reading that book would be the first—

Q. Well, I agree with you on that, and it is remarkable, but wasn't it to bring anybody into the fold? A. It was not considered and it is not considered a doctrinal book. Its purpose is prophecy throughout.

The Court: There is a statement there which tells about how wrong it is to engage in war. That is your doctrine?

2828

The Witness: I think that is a quotation.

The Court: All those are quotations?

The Witness: Yes, sir.

Q. Do you understand that patriotism is a narrow-minded hatred and is the work of the devil? A. The book does not say that.

Q. I don't think it says anything, Mr. Witness. I am not asking that. I ask you if you thought that was a quotation from anybody? A. The quotation as it appears in the book and recognized as a quotation.

Q. Oh, no, no, look at the book and see if you find this purporting to be a quotation from anybody, when it says that patriotism is a delusion of Satan, but which is in reality murder, the very spirit of the devil. Is that a quotation from anything? A. It says three great untruths.

2829

Q. Is that a quotation? A. No; that is not a quotation.

Q. That is what I asked you? A. That is my answer.

The Court: Does it make any difference, Mr. Witness, whether a quotation mark is put in the book, to act as a precaution?

The Witness: A quotation from—incidentally you

need not take every word in there and diagnose it, but as we would say, that represents my thought. I could not say, I read that very hurriedly, but it contains a certain delusion, and then you will agree with me, because it says that is a narrow-minded hatred, and you believe that and I do.

Q. No, I do not agree with you at all. Don't call on me. My question is, if it was not a book in the doctrinal class, and you said that it was not, its primary object was to teach generally that the war was wrong and it was a crime for any soldier to be engaged in it?

2831 A. That was not the object of the thing at all. That is less than one-tenth per cent of the matter that is in that book. 28,000 lines of Bible, and this is only less one-tenth of one per cent. Surely it cannot be the object—

The Court: It might be more effective if it is so small a percentage?

The Witness: I did not notice it.

Q. Don't you think the best thing to give a man to agree with you is to teach him what the Bible says, and then lead him up to the point and tell him war is a crime, and it is a crime to be in this war, if you wanted to convince a man to become a Christian, would you start out by teaching what the Bible said, and lead up to it? A. Yes, sir.

2832

Q. If you wanted a man to find out that war was a crime, and a crime to be in war, wouldn't you start out by showing him what the Bible said about it and lead up to it and teach him war is a crime? A. In the study of the Bible—

The Court: Wouldn't that be a good and effective way?

The Witness: I wouldn't have any object in teaching anybody that the war would be a crime, that is not my particular plan or desire.

The Court: You do not care?

The Witness: I mean by that it is my intention. The principal thing is to teach the Bible as I understand it, and the matter of going to war is incidental thereto. I do not tell them they must not go to war. I teach them the Bible.

Q. You think it would make a good soldier to teach him that patriotism was narrow-minded, a delusion born of the devil and going into war was a crime? A. I never said that to anybody.

Q. You circulated that book with that idea? A. Oh, no. It contains a certain delusion that is hatred of other people. Narrow-minded hatred of other people is a delusion, and you agree with that, don't you?

2834

Q. I do not. You cannot get me to agree with you, Witness. A. I believe it is a delusion.

Q. Is there any uncertainty about this language—

The Court: The Court and jury are not bound by the interpretation.

Q. Standing opposite to these Satan has placed three great untruths, human immortality, the anti-Christ and a certain delusion which is best described by the word patriotism, but which is in reality murder, the spirit of the very devil. It is this last and crowning feature of Satan's work that is mentioned first. Now, then, going down a little further. Nowhere in the New Testament is patriotism (a narrow-minded hatred of other people) encouraged. A. That is quite right.

2835

Q. And you expected a man to read that and to believe that?

The Court: Did you expect him to believe it?

The Witness: I was trusting that people who read that book would believe it as it is printed; yes, sir.

2836

Robert J. Martin

Q. And did you expect them to believe the war itself is wrong, its prosecution will be a crime; is there any delusion about that? A. That was a quotation.

The Court: Did you expect them to believe that if you wanted them to? That is the question that is asked you, not whether it is a quotation or not? Do you believe that now?

The Witness: No; no, sir.

By Mr. Sparks:

2837

Q. You say that the book does not state what Mr. Oeland claims it does. Will you kindly give your explanation and your construction of that? A. Yes.

Q. Please do. A. There is patriotism which is noble in its intent, and noble in its ends, then there is this delusion which is called a narrow-minded hatred of other people. President Wilson said we should not hate the German people. We hate their principles, but not them personally, and that would be a narrow-minded hatred of other people. He said, we should abstain from that, and that delusion there is what is referred to, but there is true, noble patriotism.

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Q. And in reading this book, that passage, that was your understanding of that, what that meant? A. I could not get anything else by reading it.

Q. You expected anybody reading it also would interpret it in the only way that you saw it? A. Surely so.

The Court: In respect to this question of religious belief, and the necessary contention of the defendant, upon reflection I called counsel's attention to the case of *Reynolds vs. The United States*, in 98 U. S., at 145. The rule laid down there will be the rule that this Court will adopt in charging the jury. This rule is an elementary one set forth in all the element-

ary text books, and always has been the law of this nation. In that case the defendant attempted to defend upon the religious belief. Now, an act may be set to speech where he said would be an act, the writing of a book is an overt act, the printing of the book is an overt act, the procuring of it printed is an overt act, selling it is an overt act, writing of a letter is an overt act. I will call counsel's attention to the case in a little detail. In this case the Trial Court was asked to instruct the jury that if they found from the evidence that he was married as charged—if he was married—in pursuance of and in conformity with what he believed at the time to be a religious duty, that the verdict must be not guilty. This request was refused, and the Court did charge that there must have been a criminal intent, but that if the defendant, under the influence of a religious belief that it was right—under an inspiration, if you please, that it was right—deliberately married a second time, having a first wife living, the want of consciousness of evil intent—the want of understanding on his part that he was committing a crime—did not excuse him; but the law inexorably in such case implies the criminal intent. Upon this charge and refusal to charge the question is raised, whether religious belief can be accepted as a justification of an overt act made criminal by the law of the land. The inquiry is not as to the power of Congress to prescribe criminal laws for the Territories, but as to the guilt of one who knowingly violates a law which has been properly enacted, if he entertains a religious belief that the law is wrong.

The Supreme Court of the United States further in their opinion, say:

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"In our opinion, the statute immediately under consideration is within the legislative power of Congress. It is constitutional and valid as prescribing a rule of action for all those residing in the Territories and in places over which the United States have exclusive control. This being so, the only question which remains is, whether those who make polygamy a part of their religion are excepted from the operation of the statute. If they are, then those who do not make polygamy a part of their religious belief may be found guilty and punished, while those who do, must be acquitted and go free. This would be introducing a new element into criminal law. Laws are made for the government of actions and while they cannot interfere with mere religious belief and opinions, they may with practices. Suppose one believed that human sacrifices were a necessary part of religious worship, would it be seriously contended that the civil government under which he lived could not interfere to prevent a sacrifice? Or if a wife religiously believed it was her duty to burn herself upon the funeral pile of her dead husband, would it be beyond the power of the civil government to prevent her carrying her belief into practice. To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself. Government could exist only in name under such circumstances.

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"A criminal intent is generally an element of crime, but every man is presumed to intend the necessary and legitimate consequences of what he knowingly does. Here the accused

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knew he had been once married, and that his first wife was living. He also knew that his second marriage was forbidden by law. When, therefore, he married the second time, he is presumed to have intended to break the law. And the breaking of the law is the crime. Every act necessary to constitute the crime was knowingly done, and the crime was therefore knowingly committed. Ignorance of a fact may sometimes be taken as evidence of a want of criminal intent, but not ignorance of the law. The only defense of the accused in this case is his belief that the law ought not to have been enacted. It matters not that his belief was a part of his professed religion; it was still belief, and belief only."

So, in this case, the Court will hold if the defendants knowingly did any act which would cause insubordination or attempt to cause insubordination or disloyalty or refusal of duty, or knowingly did any act to obstruct the recruiting and enlistment service, they have violated the law of the land, notwithstanding their religious beliefs.

Mr. Fuller: I want to say, as far as that case is concerned, there is no word in the case or doctrine propounded there that is not completely in accord with the doctrine we plead at all.

The Court: That will be the rule. I do not care to hear any argument on this, and further, I thought, I would let counsel know what the Court would hold the law to be.

Mr. Fuller: That is as we understood the law.

The Court: That is not the way you have been talking. Now, this case is an opinion by

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Robert J. Martin

the whole Court. The opinion was delivered by the Chief Justice. It is in accordance with the general rule throughout the nation, and it will be the guide of the Court in the trial of this case, notwithstanding what the views of counsel may be.

At 1:00 P. M. the Court took a recess until 2:00 P. M.

2849

June 17.

Afternoon session.

DEFENDANT MARTIN, recalled, further testified:

By Mr. Sparks:

Q. When did you first learn of the act which is commonly referred to as the Espionage Act?

Objected to. Question excluded. Defendants except.

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Mr. Sparks: Some of the defendants who were on the witness stand prior, I think I asked one or two, and probably omitted to ask the balance this question. May it be considered as part of their testimony that the question was asked of them and that your Honor made that ruling as to this?

The Court: What is the purpose of this? Do you contend that the opinion of the United States Supreme Court in which Mr. Justice Waite rendered the opinion, is not the law of the land and it is competent to show that these defendants did not know what the law was?

Do you claim that as an officer and counsel of this court?

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Mr. Sparks: I am not claiming it is the law—

The Court: Do you claim it is competent for you to ask a witness if he did or did not know the law?

Mr. Sparks: I can answer that question very decidedly, if the Court please, that it is a competent and material issue in this case, or I so construe it.

The Court: The Court will rule against you on that.

Mr. Fuller: Particularly so as to the first two counts of the conspiracy.

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Mr. Sparks: What I am also trying to cover is as to the other defendants, as to whom I may not have asked that question. May it be construed that I asked them all that question?

The Court: The Court has not any power to put that into the record. If the Government wants to stipulate that, the Court is willing, but it is something that the Court has not anything to do with.

Mr. Oeland: I am perfectly willing that this question be understood to have been asked each defendant who was on the witness stand, and the objection made and the objection sustained to the question.

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The Court: And each of the defendants have an exception to that ruling.

As long as counsel persist in taking the position that it is a material question, I believe several days ago the Court asked for any authorities you had upon that, and again this morning, and if you have any I would like to see them.

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Mr. Fuller: People against Flack is the authority.

The Court: That don't hold you can say the defendant did not know what the law was. If you have any other than the New York case I would like to see it.

Mr. Fuller: We view that case differently.

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With respect to the Reynolds' case our contention is there was all the difference in the world between a defendant who, in consequence of his religious belief, performed an act which is condemned by the statute, and a case where an individual, in pursuance and in expression of his religious belief proclaims that belief to persons under such circumstances that those persons may perhaps perform the prohibited act, and that the right of religious freedom, as we understand it, justifies an individual in endeavoring to proclaim his religious belief without being charged with what consequences may be performed by some individual who may hear that proclamation of a belief, in an act which proves to be condemned by the statute—

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The Court: That is not the law. That comes right in this case, in which the Chief Justice says: "To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself. Government could exist only in name under such circumstances." It makes no difference whether the person is getting married or making a speech or printing a book, selling a book or writing a letter or sending out a monthly paper. Those are all acts just the same as the act is of getting married.

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Mr. Fuller: If the statute says, if your Honor please, that no book shall, on and after this date—on and after this statute, shall be published and contain an adverse reference to patriotism, or which contains any condemnation of the present war or which contains any other similar statement as is in the Jefferson letter, and then this book were published and the publication of that book would be a violation of that act, it would be a violation under that case, even though the publisher of the book professed that in the publishing of the book they were merely giving expression to their religious belief—that is not the charge here.

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The Court: The statute says: "Whoever, when the United States is at war, commits or attempts to commit, or causes or attempts to cause insubordination, disloyalty, refusal of duty, violates that law," whether by publishing a book, making a speech, physical violence or whatnot. Whoever, when the United States is at war, attempts to cause insubordination by any action whatever, or refusal of duty or disloyalty, violates that statute, and it is a crime. It is just the same as though Congress had written, whoever, by making a speech or by printing a book or by personal solicitation, attempts to cause insubordination—by any means whatever—must not do it by any means, under any religious or non-religious belief.

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Mr. Fuller: I maintain if any clergyman stated that he did not believe in this draft, that he proposed to impede the draft and went into a place where soldiers congregated and read from the Bible extracts which are against the war—read a phrase in the Bible as to soldiers doing no violence to any man—read from

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a Bible those things and did not do anything but read those from the Bible—would have that expression of intent fastened upon him that he would have to be guilty of violation of the law, and the fact that he was reading from the Bible would not be any excuse, but when a clergyman reads from the Bible extracts from the Bible which show or contained those same things, the fact that those things are in the Bible and are read to those persons, I contend, is not sufficient justification for holding that he is responsible for what effect the reading of the phrase might have upon some man's mind.

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The Court: That is not this case here.

Mr. Fuller: It seems to me that that is the case which your Honor has read.

The Court: This rule that an intelligent person is conclusively presumed to know the law is so elementary, so well accepted by the Courts and by the profession, that I am surprised to have the questions raised as they have been in this case, very much surprised, and I want you to have all your exceptions reserved as to your rights on review. Now, just give the Court a case upon this subject. It would ease my conscience very much.

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Mr. Sparks: May I call your Honor's attention to Section 3 of the New York Supplement of Law—I don't recall that your Honor said that in order to violate this law whatever that person must do shall be done wilfully, and in the language of the act—

The Court: Wilfully merely means purposely, intentionally, as contradistinguished from inadvertently or accidentally.

Mr. Sparks: Wilfully to accomplish the thing charged. It doesn't mean that he wil-

fully, in the sense that he consciously speaks those words, but in speaking those words he must do it wilfully, with intent to bring about a certain result. Now, he might do it consciously—might be the most learned man in the world, and in speaking those words he would intend the natural effect of his words—better than any person that we could select, and if he didn't do it wilfully, and wilfully applies to doing it—to having it accomplished, he must intend to accomplish what his words would state—if he didn't wilfully and intentionally expect to cause insubordination in the army, he could not be guilty of this act, and so, when your Honor has stated what the law is on that, if you omit to state those two very important parts of the section here, why, we don't get a correct perspective of what your Honor has in mind and what we have in mind.

The Court: The first paragraph on page 167, which I read here, and which I said this morning would be the guide, and I will read it again. The Supreme Court of the United States says, "A criminal intent is generally an element of crime, but every man is presumed to intend the necessary and legitimate consequences of what he knowingly does. Here the accused knew he had been once married, and that his first wife was living. He also knew that his second marriage was forbidden by law. When, therefore, he married the second time, he is presumed to have intended to break the law. And the breaking of the law is the crime. Every act necessary to constitute the crime was knowingly done, and the crime was therefore knowingly committed. Ignorance of a fact may sometimes be taken as

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evidence of a want of criminal intent, but not ignorance of the law. The only defense of the accused in this case is his belief that the law ought not to have been enacted. It matters not that his belief was a part of his professed religion; it was still belief, and belief only."

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Now, the leading case upon ignorance of the fact is an English case, in which a person was told, and upon careful investigation was led to believe that her husband was dead, and she married again, and the Courts in England, by divided opinion, held that, and in spite of the fact excused her, but the ignorance of the law is no excuse. Advice of counsel as to what the law is is not an excuse for a crime.

Mr. Sparks: It would be very material if the statute had the word "intent" in it and the defendant charged went to his lawyer and submitted that proposition to him, and he received competent legal advice that what he was proposing to do was not criminal, that would be a very important element of his evidence in the case, as to what his intention was.

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The Court: Well, we will adopt this paragraph on page 167, in *Reynolds vs. United States*. It is satisfactory to the Court, these rules laid down here by the highest Court in the land.

ADAM DONALD, being called and duly sworn as a witness on behalf of the defendants, testified as follows:

Direct-examination by Mr. Sparks:

Q. You are a member of the International Bible Students' Association? A. I am.

Q. Do you work down in the Tabernacle? A. Yes, sir.

Q. And what position do you hold down there or what work do you do? A. The position I hold is known as the colporteur clerk.

Q. Do you have charge of the mailing? A. Of all letters that go out of that department.

Q. I show you a letter dated March 16, 1918, and ask you whether you sent letters similar to that out from the Tabernacle March 16th, 1918, or thereabouts (showing witness paper)? A. Yes, sir; there were 2,300 letters of that kind mailed about 5:20, March 16th. 2870

Q. You say that 2,300 of those letters were mailed on the 16th day of March, 1918, at 5:30? A. 5:20.

Q. And those letters were sent to whom? A. All colporteurs, class secretaries, and others who were interested in our work.

Q. You know of your own knowledge that similar letters were mailed to each one of those 2,300 persons? A. I do.

Mr. Sparks: I offer this letter in evidence.

Mr. Oeland: We object to it as incompetent, irrelevant and immaterial.

The Court: What is the nature of it? 2871

Mr. Oeland: Advising them not to distribute the book after March 17, 1918.

Mr. Sparks: It states more than that. It expressly states in the letter and in the text of it the situation as it arises, and on the question of intent it is the most cogent evidence that you could have.

The Court: I am inclined to admit that.

Letter referred to received in evidence and marked Defendants' Exhibit I.

The Court: Of course you would not claim that that letter was any defense of what hap-

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Adam Donald

pened before or what might have been done afterwards?

Mr. Sparks: No, it would simply go to the question of intent.

(Letter read to jury.)

By Mr. Sparks:

Q. Those 2,300 letters that were sent out on this day covered every colporteur and every class secretary or other person who was distributing "The Finished Mystery," is that correct? A. Yes.

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(Letter read.)

The Court: You maintain in that letter there is nothing in the book contrary to law. What is there in there that in any way throws any lights upon their intention, except the statement that the book spoke the truth? Notwithstanding that the Department of Justice had made objection—I think your claim proclaiming the truthfulness and purpose of the book, really aggravated the situation rather than mitigated it.

Mr. Sparks: The thing that is important, in my mind, is this: That if it be true that information for the first time came to them on March 16, 1918, that there was anything in the book which was objectionable and they immediately thereupon took the most complete steps to cause the book to cease to be circulated, sold or given away, and that they immediately started to have it examined by some authority to ascertain wherein the book was objectionable, and subsequently to remove anything that was objectionable, certainly that is the best evidence that you could get that they did not intend—

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The Court: Let me see the letter. Pass it 2875
up.

Mr. Sparks: And in addition to that they state and advise that the very pages that the Government complain of and which this jury has heard so much about from every witness, pages 247 to 253, be removed from that book—I say that any person who takes that course of action demonstrates completely that he was not, prior to that time, intentionally doing something to impede the draft or to cause insubordination in the army.

The Court: But they say here: "We are fully convinced that it doesn't contain anything that is in any wise injurious to the Government or detrimental to the progress of the war." They say the Government is wrong, we are still fully convinced— 2876

Mr. Sparks: They don't say that, I respectfully submit.

The Court: They use these words: "We are fully convinced that it doesn't contain anything that is in any wise injurious to the Government or detrimental to the progress of the war."

Mr. Sparks: "But we are having it examined for the purpose of determining whether there is anything objectionable in it and if there is anything objectionable in it we will notify you further. But in the meantime even though we don't consider there is anything wrong in the book, please do not circulate or even use the book in your class for your own private study, without pages 247 to 253 eliminated." 2877

The Court: When they do that they say to those 2,300 people the book is all right. It speaks the truth.

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Mr. Sparks: But don't circulate it.
The Court: Well, proceed.

No cross-examination.

The Court: They believed that the time had come for the people to understand what the Bible teaches—

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Mr. Sparks: They believed that and they say that despite the fact that we believe it we are going to obey the Government. If the Government will tell us what is objectionable, despite the fact that we think it is God's word as an interpretation of these two books, despite that fact we are willing to stop during the period of this war, and submerge our belief in that respect where it comes in conflict with the Government's view during the period of the war.

The Court: Notwithstanding the Government is all wrong.

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Mr. Sparks: I think a determination of the court is wrong, but I hold my belief submerged and I take my exception and go on. That doesn't make me responsible because I disagree with a party. I think it shows the best evidence in the world that a person is a law-abiding citizen, who says, "I do believe the Government is wrong. I think the Government is taking a wrong attitude in this matter, but it is the Government. It is my Government we are living under, and so long as the Government does say it is wrong, we are going to abide by the Government's decision." Certainly no person could be a better citizen than one who takes that attitude.

The Court: Well, the question here is whether they violated this statute.

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Mr. Sparks: Yes, we are trying to find out whether they intentionally violated this statute and here is the best evidence which we claim shows conclusively that they had no such intention.

The Court: Then anyone who was charged with a crime, after having committed it, say six months or a year or more and saying to the Government, "No, I am going to stop"—

Mr. Sparks: No, that is not quite the position. Where you have a person who is indicted and then who comes up and says, "I did not intend to commit a crime," that is for the jury—we find out whether he was sincere in his denial of the commission of the so-called crime by going back to the time that he committed, or they say he committed it.

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The Court: It don't make any difference how honest he may have been in doing these acts, he would s'till be committing a crime.

Mr. Sparks: Not where there is a question of intent.

The Court: Certainly. However honest, however sincere his intention is, if those acts violate the law, he commits a crime.

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Mr. Sparks: Knowingly and intentionally?

The Court: Intentionally. If they printed and sold a book they intended to sell—now, however honest, however sincere, however religious they may have been, nevertheless they could have committed a crime just the same, and that makes a man all the more dangerous, because if a person preaching against war is sincere, he is more earnest he can be more effective, more earnest, more dangerous to the

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Government than he could if he were insincere, if he were dishonest, if he were preaching something he did not believe himself.

Mr. Sparks: The Government has never taken the attitude that any citizen may not be against war. Congress says you may be against war, but you may not do something which would intentionally impede the war on your part.

Mr. Fuller: It seems to me that the term unintentional commission of a crime is a contradiction in terms. The very fact that you commit a crime presupposes an intent. A man cannot unintentionally commit any crime—

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The Court: He can do acts that he doesn't know are against the law and still commit a crime.

Mr. Fuller: No question about that. A man cannot unintentionally violate the Statute, because if he violates the Statute he has got to have an intent under the terms of the Statute.

The Court: He may not know it is against the law at the time he does it, and still be guilty.

Mr. Fuller: That is true, but our contention is there is no intentional violation of the Statute—if he interferes with the draft without intending to interfere with the draft and it was not intended by him to be an interference with the draft, we contend it is not a violation of this Statute.

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The Court: Supposing these defendants wrote this book, printed it, sold it, and the only thing that entered their minds was that they were serving God, do you contend that they could not be found guilty here?

Mr. Fuller: I do, because that would make

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a man a law unto himself. He is presumed to know the law—he is conclusively presumed to know the law, and when he intentionally does an act—that is, he makes a speech, just such a speech as he intends to make—writes a book, he writes just such a book as he intended to write, he prints it and the printer prints it just as he wrote it, and he sells it, and he intended to print and sell it, all those acts are against the law and he is guilty notwithstanding he merely believed or intended to serve God in doing all those things.

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Some clergyman might arise before Congress and give a sermon as to the significance of Easter and dealing with Christ as the Prince of Peace, he might convert that sermon into a book, and some newspaper might carry it to the soldiers who participated in the draft, who might read it, and there might arise riots and so forth, we will assume in consequence of the effect produced by the sermon upon the people who read it, and he might be indicted and charged with having deliberately and intentionally aroused their minds to such situation, and he comes before a jury of twelve men and the circumstances are narrated to the jury, the specific question under that state of facts would be presented to the jury is not as to whether that man intended to preach that sermon, but simply as to whether or not in preaching that sermon that man had any intention then to impede the draft—our contention is that when preaching that sermon he did not intend to impede the draft, in the case of where the effect of the sermon is shown to have impeded the draft—if they find that when he delivered that sermon or prepared that sermon he did not

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Joseph F. Rutherford

intend to impede that draft, that under this Statute he has not violated this law.

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The Court: If he comes into court and says, I expected the congregation to believe what I said. I expected them to follow what I asked them to—I hoped they would do what I asked them to do, but I don't want it down on me if they refused to do military duty, I didn't think at the time I was conscious of it, I ought to have been more careful, I ought to have been more prudent, ought to have been more considerate, but in my rushing, in my carelessness, in my negligence, I preached the sermon, but it never dawned on me what effect it would have—you say he could not be found guilty?

Mr. Fuller: No, I don't say that. I say if the jury take that as their view of the situation this jury must not find him guilty.

The Court: Well, I think the Court has an understanding of the law, and I wish counsel would hand up to the Court the authorities on which they base their interpretation of the law.

Mr. Fuller: We will do what we can, if your Honor please.

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JOSEPH F. RUTHERFORD, one of the defendants being duly sworn as a witness in his own behalf, testified as follows:

By Mr. Sparks:

Q. How old are you? A. 49 next November.

Q. Born where? A. In Morgan County, Missouri.

Q. You are a practicing attorney? A. I practiced law in Missouri practically for fifteen years.

Q. Have you held judicial office in Missouri? A. At times I have served as Judge of the Circuit Court

under a special Statute in Missouri where members of the Bar are elected as Judges to hold Special Terms for special cases. That is the only capacity in which I have served judicially.

Q. You are also a member of the New York Bar?

A. Yes, sir, became a member of the New York Bar in 1910.

Q. Before we go into other matters I show you a letter dated March 5, 1918, and ask you whether you received that letter in response to a telegram that you sent out (handing witness paper). A. I did, yes, sir.

Q. Is the telegram which is quoted in that letter a correct quotation or a correct copy of the telegram that you sent? A. It is.

Q. And the telegram that you sent was to Mr. Conkey? A. Yes, sir, at Hammond, Indiana.

Q. And that is the witness whom the Government called here in the early stages of this trial? A. The same one, yes, sir.

Q. Under what circumstances did you send that telegram, Mr. Rutherford? A. When I learned there was some objection to this book, "The Finished Mystery," I immediately telegraphed the printers to stop work on it.

Q. Was work stopped on the book? A. It was.

Q. And from that time down to the present time has there been any work done on the book? A. About 100,000 of this last order given finished, but with new plates for the objectionable pages that are mentioned here.

Q. That is, after you were able to get such information as you could from the Government as to the objectionable parts of the book they were eliminated and new pages written? A. Yes, sir.

Q. And even the book as republished with the objectionable matter cut out has been withdrawn from

circulation until you could get the Government to take a position on the book? A. There has been none circulated. They were all stored with the printer, except a few we have here.

Q. So that from the time you first learned, in March, 1918, that the Government had any objection to this book, you and the Board of Directors of The Watch Tower Bible & Tract Society and The People's Pulpit Association gave immediate instructions to cease the publication and distribution of this book? A. Yes, sir.

2897 Q. And no books have been sold or distributed from that time down to the present time? A. None.

Mr. Sparks: I offer this letter in evidence.

Mr. Oeland: We object to it as incompetent, irrelevant and immaterial.

The Court: I am inclined to admit it as consistent with the other letter.

Marked Defendant's Exhibit J.

(Read to the jury.)

Q. You subsequently instructed Conkey & Company that the matter was not to be proceeded with under the original contracts? A. Yes, sir—they were proceeded with under the original contract to finish up that 100,000 edition, but with new plates.

2898 Q. The original contract was never completed, but it was changed in the respect that new matter was submitted for the objectionable matter? A. Yes, sir, that is correct.

Q. After stopping work on the books by this telegram and the sending out of this circular letter to all colporteurs and class secretaries and other people who were then engaged in distributing the books, did you try to get into communication with the Department of Justice and ask them to find and point out wherein the

book or your work was objectionable? A. I did. I personally had a talk with Mr. Buchner and also wrote the Attorney General's office of the Department of Justice.

Q. Asking them to inform you as to what was objectionable? A. Yes, sir.

Q. I show you a letter dated March 15, 1918, and ask you whether you received that letter from the Department of Justice? A. I received that letter on the 16th day of March, 1918, from the Department of Justice in Washington.

Mr. Sparks: I offer it in evidence.

Mr. Oeland: We object to it as irrelevant, and incompetent.

The Court: I am inclined to admit this. I don't think it is material; the Attorney General merely says he is not required to give an opinion—declines to give an opinion. If he did give an opinion it would not in the least be material in the trial of this case.

Paper marked Defendant's Exhibit K, and read to the jury.

Q. Mr. Rutherford, after getting this letter from the Department in which they declined to inform you whether the book with the pages omitted would have anything objectionable in it, were you able to ascertain from any person wherein the book was objectionable?

Objected to.

Objection sustained.

Q. As a result of not being able to get information you ceased entirely the distribution of the book? A. I did, sir.

Q. You sent to Washington a special representative to see if he could ascertain? A. Yes, sir.

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Q. What was your early religious training, Mr. Rutherford? A. I was taught by my mother in the Baptist Church, united myself with that church when I was seventeen years of age.

Q. When did you first come in contact with Pastor Russell's teaching? A. About 1894 I bought his books, three volumes.

Q. And at what time did you join with the church in the town that you were living in? A. I read those books, but not until eleven years afterwards did I fully accept and make a consecration to the Lord—in 1906.

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Q. In 1906 you made a full consecration to the Lord? A. Yes, sir.

Q. And did you give up the practice of the law at that time? A. I did the year following.

Q. And ever since that time you have been engaged in this work? A. I have.

Q. And upon the death of Pastor Russell on October 31, 1916, were you elected president of The Watch Tower Bible & Tract Society? A. I was elected president in January 1917. I was a member of the executive committee from the time of his death until January, 1917.

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Q. Then at the annual meeting you were elected its president? A. Yes, sir.

Q. And have been handling all the work as president ever since? A. Trying to, yes, sir.

Q. Had you, as president of The Watch Tower Bible & Tract Society and The People's Pulpit Association of the English corporation, known as The International Bible Students' Association, ever discussed, between the time of Pastor Russell's death and the 6th day of December, 1916, the question of issuing the seventh volume? A. I had not.

Q. What was your thought and the thought of your co-religionists in reference to the seventh volume? A. For a number of years it had been promised by Pas-

tor Russell the author of other volumes and all the church everywhere of the International 'Bible Students' Association were looking and waiting for that book to be published and time and again he had said that I expect to treat Revelations and Ezekiel in the seventh volume, and some of those questions that were asked, I cannot answer until that volume is published, so we had expected it for a number of years.

Q. Pastor Russell died when? A. The 31st of October, 1916.

Q. Where? A. On a train in Texas, coming from California back to this place.

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Q. And on his death bed or shortly before his death did he give expression to any thought in reference to the seventh volume?

Objected to.

The Court: Do you claim that is admissible?

Mr. Sparks: It is hearsay evidence and if they insist it is objectionable. It is simply a continuation.

The Court: It will be excluded.

Q. But there was no action taken down to the 6th day of December, 1916, in reference to the publication of this volume? A. There was none. We did not know who might write it, who might be selected for that purpose.

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Q. What was the expectation as to how the book would be written? A. We expected the Lord to provide in some way, some one who was acquainted with the Scriptures, the best qualified, and He would assist such a one to interpret it in line with what Pastor Russell had already written. He had written something on Revelations and something on Ezekiel. He had laid out in his writings the symbols whereby the Bible is interpreted and we expected, of course, some

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one to interpret those who were familiar with the symbols, because the book of Revelations is written practically all in symbols and that is almost wholly true of Ezekiel.

Q. You consider that the two are related? A. Very closely related.

Q. And it has always been the intention to make the seventh volume an interpretation of Revelations and Ezekiel? A. Yes, sir.

2909

Q. And you were waiting for some person to appear, as you might say, the man of the hour to write that book? A. Exactly so, yes, sir.

Q. I show you a letter and ask you whether that letter was the first suggestion of any kind in reference to the possibility of the book being written (showing witness paper). A. Yes, sir: I recognize this letter as having been delivered to the Executive Committee at the time dated, namely, December 6th, 1916.

Q. Prior to that time no person ever made any suggestion that the time was ripe for the publication of that book? A. No, sir, no one had. That is the first suggestion.

Mr. Sparks: I offer the letter in evidence.

Objected to as incompetent and irrelevant.

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Mr. Sparks: It is the first suggestion as to the inception of the book. I think it is relevant on the issue that the book had an innocent inception and how it came into being, in order to throw light upon the continued publication of it between the time that the Government claims it became illegal and the time of the finding of this indictment.

The Court: None of these defendants so far—they all say they intended to do just what they did, they intended folks should believe and act upon what they printed. Is this witness going to take a different course?

Mr. Sparks: No.

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Mr. Fuller: They have been charging we used this book as an instrument for the commission of crime. Now, if it was created as an instrument for crime, of course, that weighs against them. Then, on the other hand, if it was created for a purely proper purpose, the question comes as to when they first concluded to use it for the commission of a crime. Isn't it admissible to prove at least that there was a period, a minute, week, month or year that there was no thought in their mind of using it as an instrument for crime? The indictment charges that this very book was gotten up for the purpose of this conspiracy so far as the indictment was concerned. You would think that the book itself was written for the very purpose of impeding the draft. Now we are entitled, so long as the indictment alleges that, to show its inception. Counsel for the prosecution made the suggestion insidious in character—

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The Court: No, the prosecution states that because there were no crimes—because it was no crime against the United States, except such as Congress make criminal by statute, Congress having omitted to pass a statute making attempts to create insubordination refusal of duty or obstruction to the enlistment service criminal, however harmful the conduct of the defendants were, there is no way they could be reached until this law was passed on June 15th. Is that the position of the Government takes?

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Mr. Oeland: Yes, sir.

The Court: Now, however, harmful this program was, there would be nothing for the

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Government to do until this law was passed, there is nothing the Federal Government could do, because it is one of limited power; it has no common law so to speak. Now, the Government don't contend as I understand it that this was unlawful when they printed the book, nothing about it. It was not unlawful although it was harmful, not unlawful until the 15th day of June. Have I stated the Government's position accurately?

2915

Mr. Oeland: Yes, sir. Your Honor misstated one fact I think which slipped your mind. The Government says it was not printed until after the 15th. We contend that it was not actually printed until after the 15th. We contend, no matter how vicious it was, there being no law to prosecute it until the 15th of June, we won't ask that they be held here for anything prior to the 15th of June.

The Court: If you did ask, the Court would have to tell the jury it was not criminal. Now don't you think as long as there is no claim by the Government as to that, to let them put this in?

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Mr. Oeland: I will do that. I will withdraw the objection to it.

Marked Defendant's Exhibit L.

(Read to the jury by Mr. Sparks.)

By Mr. Sparks:

Q. Was there any action taken on that communication Mr. Rutherford by the executive committee?

A. The executive committee instructed Messrs Woodworth and Fisher to submit their manuscript of what should be done.

Q. I show you a letter dated December 7th sent in

answer to Mrs. Siebert's letter? A. That is a letter in answer to the letter just read from Mrs. Siebert.

Mr. Sparks: I offer in evidence that letter. Marked Defendants' Exhibit M.

The Court: Who was she?

Mr. Sparks: She was referred to once by Mr. Fisher.

The Court: She is not one of the defendants?

Mr. Sparks: No. This is only an answer to a letter showing the decision of what the executive committee took on the letter.

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Mr. Oeland: It was written by an outsider, but I have no objection to it.

(Mr. Sparks reads letter to the jury.)

By Mr. Sparks:

Q. How soon after that letter was written, Mr. Rutherford, did you receive any manuscript from Mr. Woodworth or Mr. Fisher? A. I think sometime in December I received some manuscripts both on Revelations and Ezekiel.

Q. Where did you read it? A. I did not read the manuscript until I started to California the 8th day of February, 1917, and took it with me on the train and read that manuscript going and coming.

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Q. Do you know how much had been delivered to you at that time? A. I took with me nine chapters of Revelations as I went out and three or four chapters of Ezekiel, and Mr. Woodworth mailed to me at Los Angeles up to and including the 16th chapter of Revelations and two or three more chapters of Ezekiel.

Q. Can you fix the date when you read the manuscript of page 247? A. I can fix that exactly by reference to a memorandum book as to the date I left Los Angeles. Just a moment (witness refers to memorandum.) I left Los Angeles Wednesday the 7th

of March, 1917, on my return to New York, and was at Columbus, Ohio, on the 11th of March, 1917, and I read that manuscript between Los Angeles and Chicago, prior to reaching Columbus, which would make it between the dates March 7th and March 11th, 1917.

Q. When did you finish the entire manuscript? A. I finished the entire manuscript, with the exception of the last few chapters of Ezekiel, which refers to the temple, I finished all aside from that early in April, probably the latter part of March and I received the last manuscript of Ezekiel on the 21st day of March, 1917.

Q. So when you read the proof on page 247, "Come out of the mouth of the dragon," whatever expression there is in that paragraph in reference to patriotism did not apply to the United States because we were not then at war? A. Had no application in my judgment at that time, and not since.

Q. Taking the quoted part of page 247 which consists of a quotation from C. E. Jefferson. Was that in the manuscript when you originally read it? A. It was, but I did not read it for the reason that in reading this manuscript, whenever I found a quotation from the "Watch Tower" which Pastor Russell had written I considered him ample authority to pass on that without my judgment, and having previously read it in the "Watch Tower" probably at the time published, I did not read it.

Q. And the quoted part beginning at page 250, taking the bottom of page 249 and ending at the top of 250 in reference to the expenditure of this Government of seven billions of dollars. Was that in the original manuscript when you read it? A. That was not in the original as will be seen by the original manuscript which is there on the table. It was added after I read the manuscript.

Q. Taking the part at 250 and running to 253. I ask you whether that quotation was in the original manuscript when you read it? A. It was not in the original manuscript. The first time I ever read it was on the 5th of March, 1918. That was after I had read the manuscript and returned it to Mr. Woodworth. That is also shown by the original manuscript which is there. It is not in the original.

Q. Mr. Rutherford, will you state the creed of the International Bible Students' Association in a concise form? A. The creed of the International Bible Students' Association is the Bible as expounded and explained by Pastor Russell in his writings, which embraces studies in the Scriptures, the "Watch Tower" and other minor publications.

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Q. Will you state what the creed is in condensed form—what it is? A. Well, the fundamental doctrine is the ransom sacrifice that Jesus Christ accepted death for every man. That man, originally created perfect, violated God's law and fell, and that his sin of disobedience brought death upon all men, and therefore all are born sinners—that is the very language of the Apostle Paul. He promised a Redeemer. That in the course of time Jesus as the Redeemer of mankind—His life was transferred from spirit to human, that is at the age of thirty years, being perfect under the Lord and perfect as a human being He gave himself a corresponding price, a ransom sacrifice for all, to be testified in due time to all, that all should believe Him to be true and accept Him as a Redeemer—to that extent believe in the Lord Jesus Christ, that those who made a full and unreserved consecration to him under his will, trusting in the merit of Christ, thereby sacrificing all their earthly possessions and prospects, and taking God's will and serving Him and doing His will, regardless of what their natural inclinations would be. That thereafter Christians will disseminate, determine

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on the will of Jehovah and His will in His law, and His law is expressed in the Bible, particularly in the New Testament. That during the time from the Pentecost until the coming of the Lord, God has selected from amongst men those who will constitute the kingdom class who will be joined around Christ Jesus in His kingdom, and these and these alone will be associated with Him and all who take the step of a full consecration, faithfully keeping that unto death, for the promise of being associated with the Lord in His kingdom. That after His kingdom come then all mankind—all the dead and all the living, will have one fair, impartial opportunity and trial for life, but during the time of man's own trial—the Christian's own trial, if he violates the will of God, it naturally destroys him; there will be no resurrection for such, no future life, no future hope, because he sacrifices all his hope of being a perfect being on the human plane. Correspondingly our creed or teaching is that everyone who makes a full consecration has no alternative for him except to live—he must live on the spirit plane, no matter what his natural inclinations thereafter should be, if he repudiates his covenant, he does what the Scripture terms second death for him—there is no resurrection.

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Q. Where is that creed? A. In the six volumes, but more specifically in the sixth volume.

Q. Is there any provision made in the creed or the rules of the International Bible Students' Association providing for the expelling of members? A. There is.

Q. What is that? A. Following the statement of the Apostle Paul, where one draws aside from the teachings of the Scriptures, that the other members withdraw from fellowship from them and do not thereafter regard them as members. That is set forth specifically in the sixth volume.

Q. Is the International Bible Students' Association, not the corporation, but the aggregate body, of members, is its creed against war? A. It is.

Q. There is a notation on the original contract, which speaks of 96 pages? A. I have it in mine, Mr. Sparks, and I can answer that without the contract.

Q. A memorandum on Exhibit 2j, which speaks of 96 pages additional will cost seven-tenths of a cent, to be paid on completion of press work, June 30, 1917. Were the 96 pages referred to in that, additional pages which went into the book after May 26, 1917? A. They were not. I would like to explain that.

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Q. Will you kindly explain that? A. It refers to the proposition or contract from the first page—you will observe that the proposition calls for a book of 512 pages, and the price was based on that proposition. When the manuscript was delivered, no one could definitely tell exactly how many pages it would make, and when it was all set up and paged it was found to make 612 pages, according to the printer's method of calculating pages. I was in Mr. Conkey's office on the 30th of June, 1917, after the pages were all set up and arranged, and he called my attention to the fact that there were 96 pages more than the original contract called for and therefore that would make a slight difference in the price, and he asked me to endorse on the bottom of that contract this fact, in order to adjust the account properly, which I did. There is no manuscript added whatsoever at that time or after it was originally written.

2931

Q. So that the date of the original contract, the entire manuscript had been written, was in the hands of Mr. Conkey? A. Practically all except a few pages on one of the last chapters of Ezekiel, known as the temple chapter, which was to be written by Mr. Fisher at that time.

Q. The temple chapter, none of the objectionable

2932

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matter that has been specified in court is contained in that chapter? A. No, sir.

Q. Did you at any time, Mr. Rutherford, have any understanding, express or implied, with any of the other defendants in this case, to form a conspiracy with them to publish "The Finished Mystery"? A. I did not. Had no thought of such a thing.

Q. Or any conspiracy, understanding, express or implied, as to opposition to the draft or to the raising of an army, in any respect? A. Absolutely, no.

2933 Q. Does that also apply to all the other exhibits or schedules which are attached to the indictment here? A. It does. I have never been in opposition to the draft.

Q. Or any of the exhibits which come as evidence on the trial of this action? A. That is true in reference to those, yes, sir.

Q. Do you bear them in mind, what they are? A. I think so.

2934 Q. They consist, in addition to the ones that are mentioned in the indictment, to several letters written by Mr. Van Amburgh and a number of letters written by Mr. Robison, and two letters, I believe, written by yourself? A. I had no knowledge of the letters written by Mr. Van Amburgh, as to their contents, until after this indictment, after it had been returned, in fact, until this term of court began.

Q. Ever hear of them until the Government sent copies around to our office? A. I did not.

Q. That is the first that you knew of these letters? A. I did not discuss the letter with Mr. Martin at all. Mr. Robison—I started to California on the 16th day of January, and I intended to speak to him about it but was so busy I didn't have time. I dictated a note to my secretary, did not sign it, but I think Mr. Robison has that yet, simply outlining what the forms were

that were to be used. Had no talk with him whatsoever.

Q. Did you have any knowledge of the DeCecca letter and the D'Onofrio letters? A. The first time I ever heard of the DeCecca letter was at the hearing before Commissioner Cahoon on the same day on which Mr. DeCecca was indicted and brought into this court before Mr. Justice Chatfield and gave bond. That was my first knowledge of it.

Q. Do you recall the exhibit, the "Bible Students' Monthly," in which the Jack London letter appears?

A. I never heard of that Jack London letter until it was read here. That was published in 1916, when I was not here. I spent the greater portion of 1916 on the Pacific Coast, more particularly in California, and I was not back here until the latter part of November, 1916. I did not see that issue of the "Bible Students' Monthly" and never read the Jack London letter or heard of it until I heard it read in this court. I had read a portion of "A Christian Soldier" in a sermon by Pastor Russell, of which this is a part, taken by someone and put in the "Bible Students' Monthly" afterwards.

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Q. That is no part of the lecture as delivered by Pastor Russell, is it? A. Absolutely not. I don't think Pastor Russell ever used that. I feel quite certain he would not have endorsed such language. I would not, most emphatically.

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Q. That is the definition of a soldier as given by Jack London, is not your idea of the definition of a soldier? A. It certainly is not. Not by any means.

Q. You are sure that the definition of a soldier as given by Jack London was not a part of the original sermon delivered by Pastor Russell? A. I am certain it was not, and the paragraph just preceding it in this "Bible Students' Monthly" is not in the language of

Pastor Russell. Anyone familiar with his language would know he did not write that paragraph.

Q. You were not here when the original "Bible Students' Monthly," Volume VIII, No. 4, was printed? A. No.,

Q. Have you any personal recollection of ever having read that particular "Bible Students' Monthly"? A. I never saw it until it was offered here in court.

Q. Did you ever give any orders for its publication? A. I did not.

Q. Nor dissemination? A. No, sir, I did not.

2939 Q. Did you try to get from the adjutant general's office some ruling on the question of whether the International Bible Students' Association and its members were entitled to deferred classification? A. The provost marshal general, yes, sir. I took a trip to Washington, to see General Crowder, shortly after the Selective Draft Act was passed. I called at his office and he was not there, but I had an interview with his aide.

2940 Q. Was that visit occasioned by the fact that the local boards in different parts of the country were making divers rulings as to the standing of various registrants? A. It was because of a certain local board had said the Government does not recognize your society, so I went to Washington to find out about that; afterwards had some correspondence both directly with the provost marshal general and through Senator Stone.

Q. In anything that you did in reference to the Selective Service Law, were you endeavoring to impede the United States Government in raising its army? A. I was not, and never had such a thought in my life.

Q. Did you ever act with any of these other defendants to that end? A. No, sir, I did not.

Q. Or ever consult with any of them to that end? A. I did not.

Q. Will you tell the Court and jury where the funds came from to start that "First Mystery" on its way?

A. Yes, sir. It came from George Butterfield. I can give the details or the reason why they came from him, if the Court desires them.

Q. I don't think it is material. Some gentleman by the name of Butterfield donated a certain sum of money for the purpose of defraying the work of getting out "The Finished Mystery"? A. Yes, sir, anyone would regard it as a great favor to get out the seventh volume, Mr. Sparka.

Q. You were going to use that money for that purpose? A. Yes, sir. 2942

Q. And did use it for that purpose? A. And did use it.

Q. Where does Mr. Butterfield live? A. His home, for the greater portion of his life had been in Iowa, but at the time he sent me this check he sent it from Colorado, where he also owned a piece of property.

Q. At the time Mr. Martin went to Hammond, Indiana, were you here? A. Not when he left, no, sir.

Q. Where were you? A. I was in Pittsburgh that day, on a return from the northwest.

Q. Had you sent your personal check to Mr. Conkey, at Hammond, for the purpose of defraying the expenses of mailing the book? A. I mailed my check at Chicago to Mr. Martin—or Conkey Company, for \$2,500, for the purpose of paying the postage on this book. 2943

Q. Did you hear Mr. Van Amburgh testify in reference to why his check for \$2,500 was given? A. Yes, sir.

Q. And I think he said something as to the purpose in concealing the fact that the seventh volume of "The Finished Mystery" was going to be published. What

is the fact in reference to that? A. No purpose in the world to conceal the fact that it was going to be published. The reason of it was this. We had considerable difficulty at that time in our society.

Q. Was that difficulty over "The Finished Mystery"? A. It was not. Did not include "The Finished Mystery" in the slightest.

Q. "The Finished Mystery," at that time, had not become the subject of any discussion among any of the members? A. No, sir, had not discussed it with a single person in the society at the time this trouble started.

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Q. That is the trouble you are referring to as the trouble mentioned in the resolution which you presented to the Board of Directors on the 17th of July, 1917? A. Yes, sir.

Q. That was some internal dissension in the organization that did not apply to this "Finished Mystery"? A. Yes, sir.

Q. And the origin of that trouble was some difficulty in London over the management of the London branch? A. Yes, sir.

Q. And the entire trouble in reference to the society's affairs arose out of that incident in London?

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A. That was the inception of it, one of them.

Q. Was there any purpose on your part at the time that Mr. Martin—or any time up to the time that the book was published, to conceal the fact of its publication? A. None whatsoever. We desired this, however, that all the friends of the subscribers to receive it at the same time as a favor to them, because we knew that they were anxious to get it, but the thought of concealing it from any person for any ulterior motive was entirely foreign to any thought of any person. I might explain that further by saying that I know that our people have been looking for this book for years, and the only purpose in sending Mr. Martin

to Hammond was to mail out the book from there to the subscribers—we had many subscriptions in the office all paid for, had been there for years waiting for the book. The purpose of sending Mr. Martin to Hammond was to mail the seventh volume to subscribers living furthest away so that all of them would receive it practically at the same time, which afterwards proved to be true. They very much rejoiced in getting it at the same time.

By Mr. Fuller:

Q. Last fall, November, December and January, 2948 did you hear various reports of preachers or members of your association who were having difficulty with some of the various local boards? A. In reference to the classification?

Q. Yes. A. Yes, sir.

Q. You learned of divergent action by the different local boards, didn't you? A. Yes, sir, some boards decided one way and some the other.

Q. Did you learn that some local boards declined to recognize that the International Bible Students' Association was a religious organization at all? A. Yes, sir.

Q. And in other instances they did recognize that? 2949 A. Yes, sir.

Q. And in some instances were member preachers of your organization denied any recognition of their status as preachers? A. Yes, sir.

Q. And in other instances they were recognized? A. Yes, sir.

Q. Were any of your members denied recognition as persons who were members of an association whose religious creed was opposed to war? A. Yes, sir.

Q. And in other instances they were recognized as being members of such association? A. Yes, sir.

Q. You were familiar with the practice—the periods

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of time allowed under the Selective Service Law, were you not? A. Yes, sir.

Q. And those were very brief periods? A. Very brief.

Q. Did you, or was it Mr. Van Amburgh that took any steps whereby the affidavit establishing the status of the International Bible Students' Association might be readily forthcoming? A. In a number of instances local boards wrote to us to know whether it was such a society as came within the purview of that section of the Statute, and an affidavit was prepared showing the status of the society.

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Q. I show you Exhibit 6, and ask you if that affidavit was prepared for that purpose (showing witness paper)? A. Yes, sir it is a quotation from the creed of our association.

Q. And this affidavit was prepared to be executed by Mr. W. E. Van Amburgh as the clerk and secretary of the association? A. Correct.

Q. You have heard Mr. Van Amburgh testify that there were in all about 1,800 copies of these affidavits prepared? A. I heard him say that. I didn't know how many he prepared.

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Q. This affidavit which you have just looked at, Exhibit 6 for identification it is marked, which was referred to in Mr. Van Amburgh's testimony as being a paper of which 1,800 copies have been printed. The sole purpose of that paper was to establish the fact that the International Bible Students' Association was a religious organization, the present creed of that organization bearing upon its attitude toward war; is that so? A. Yes, sir.

Q. And the propriety of members of the organization and association engaging in war? A. That is it.

Q. Were those 1,800 copies prepared in order to facilitate the establishment of that fact in the various

local boards? A. They were printed for the purpose of facilitating the courts—

Q. They may have been used anywhere, in any court of the United States? A. I believe so. They had only five days to file them and it would take five days to get across the continent.

Q. In each instance where a person applied for such an affidavit you sought in each instance to make inquiry as to whether such a person was or was not a member of the association. Was there time enough to prosecute that inquiry and then forward the affidavit? A. No.

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Q. Did you know it was a part of the function of the various boards to inquire separately into the fact of the membership of such persons in the association? A. Yes, sir.

Q. And this particular paper would have no bearing on the question as to whether he was or was not a member of the association? A. Absolutely not, no sir.

Q. And this was in case they happened to ask him what the International Bible Students' Association was and what its creed was? A. That is all the purpose of it, that is all it does say.

Q. And its possession by any individual did not in any way imply he was a member of the association? A. No, sir, and the presumption is no one else would want it.

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CROSS-EXAMINATION by Mr. Oeland:

Q. Mr. Rutherford, you say you were not opposed to the Selective Draft Act? A. No, sir. I have been trying to aid others in getting proper classification under the act.

Q. My question was, did you say you were not op-

posed to the Selective Draft Act? A. That is what I said.

Q. Have you ever done anything to help anybody get in the Selective Draft Act? A. No, sir.

Q. Let us go back to the act a minute. Did you ever do anything to help anybody get into the Draft Act? A. I certainly did not. I tried to get them properly classified. What do you mean by that, Judge Oeland?

2957 Q. Did you ever advise anybody it was their patriotic duty to enlist in the service of the war or to go in under the Draft Act? A. No; I was not advising to that extent. Was not asked.

Q. You never did do that? A. No, sir; I gave only advice where I was asked, and I was not asked on that proposition.

Q. Everybody that asked you was trying to get out of it? A. Everybody that happened to ask me usually were those who were members of our organization. Some asked how they could get into the organization, and I told them they could not get in for the purpose of gaining any exemption under the law.

2958 Q. You studied this Draft Act considerably, didn't you? A. I studied it. It was very difficult to understand.

Q. Didn't you learn that the church known as what we call the Quaker Brethren had refused to take in new members in the organization after the passage of the Draft Act? A. I had nothing to do with the Quakers.

Q. Didn't you learn that fact? A. I did not learn it.

Q. Didn't you take legal advice to see if you could not take members into your organization after the passage of the Draft Act? A. I did not for the simple reason we did not take members into our organization. I have never sought any one to become a member of this organization.

Q. Did you ever take legal advice as to whether a man who became consecrated after the passage of the Draft Act would be entitled to set up the exemption? A. I have no recollection as to that. I think I had a letter from somebody, probably General Crowder, along that line. I think General Crowder construed the act—if you want his construction of it.

Q. No; I didn't ask for that. My question was, did you take advice as to whether or not you could take in any members or whatever you call it, into your organization, after the passage of the Draft Act? A. I would have to have my memory refreshed. I have no recollection of such a thing.

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Q. Were you ever actually interested in the Draft Act? A. I was trying to advise those who asked me because I considered it to be my duty both as a lawyer and as a member of this organization, as president of it, because the President had asked lawyers to aid howsoever they could in getting persons properly classified, and I understood that every lawyer in the city—

Q. Did you ever do or advise or aid anyone to become a member or to voluntarily enlist in the army, or to become a member of what we know as the Selective Draft? A. I did not to my recollection.

2961

Q. Did you advise others not to enlist or become members of the Draft Board? A. I did not. I did not advise anyone not to enlist.

Q. Did you advise others not to do anything in the service of the nation after they had been drafted? A. I have no recollection of such. I may have advised them to wait until the President declared what non-combative—if you have anything along that line I would be glad to see it because I don't want to draw on my memory and make a misstatement in the matter.

Q. I am testing your memory to see what your recollection is about it. You said you had no way to become members? A. I never said that.

Q. What did you say? A. I never was asked that at all.

Q. Did not you just say you never solicited any membership? A. Yes, sir.

Q. What did you say? A. I never was asked that at all.

Q. Did you first say you never solicited any membership? A. Yes, sir.

Q. What did you say about not becoming members? A. I said I never asked anyone to become a member of our organization.

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Q. How do they become members? A. They become members in this manner: They become interested in the study of the Lord's Word. If they read the books that we have, Pastor Russell's writings, and accept them as such and associate themselves with a class in study, and then use the privilege of consecration and make a consecration and symbolize that consecration, answering the questions that are asked them at the time, they do so, and then associate themselves thereafter with the class, they are considered members. I can give you that in detail, Judge Oeland.

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Q. Do you agree with Mr. Van Amburgh's affidavit that you are against the war in any form? A. The consecrated members of the International Bible Students' Association are opposed to engage in war in any form, but they are law abiding. They abide by the law.

Q. You are a consecrated member? A. I am.

Q. Then, you are opposed to war in any form? A. Personally opposed to engage in war; yes, sir.

Q. You say consecrated members? A. Yes, sir.

Q. Well, who are the consecrated members; how do you tell them? A. I can tell them very easily by talking to them in five minutes.

Q. Is that the only way you tell them, by talking with them? A. Not necessarily so.

Q. Is there any other way you can tell them except by talking with them and reading it from the letter?

A. I wouldn't want to pass judgment on somebody else unless I knew them personally. He might say he is consecrated and not give evidence of it whatsoever.

Q. What are the evidences that you say you can tell by talking with them five minutes? A. Anyone who has made a consecration to the Lord has such an illumination of his mind on spiritual things that he can understand God's word and no one else can. The apostle mentions this in Corinthians, 2:14, where he says: "But the natural man receiveth not the things of the Spirit of God for they are foolishness unto him; neither can he know them, because they are spiritually discerned"—but God has revealed them to us by His spirit.

2966

Q. How by receiving a letter from him you know that he is consecrated? A. The language in which he couches the letter.

Q. Is that the only way? A. If he was a stranger to me, I would judge this letter—whether or not he had any knowledge of the Scriptures.

Q. Is there any way that a chairman of a draft board could tell whether a man was consecrated? A. That would depend on whether or not he is consecrated.

2967

Q. Altogether? A. Absolutely.

Q. You were not fortunate enough to have all members of draft boards consecrated all the time? A. Well, I never talked with them along those lines.

Q. You could tell a man consecrated in five minutes, but no one who was not consecrated himself could tell? A. I don't think so.

Q. And yet you published or prepared the publication of 1,800 affidavits to be sent out broadcast and used by whosoever's hands they fell into? A. That is not hardly the fact, Judge Oeland.

2968

Joseph F. Rutherford

Q. Did you put any restriction on the use of the affidavits? A. My instructions were that those affidavits should be given only to those who were members of the association for that purpose, to establish their status before the boards.

Q. Who did you tell that? A. I told my secretary.

Q. Mr. Van Amburgh is not your secretary? A. No, sir.

Q. Did you hear his testimony? A. I heard it; yes.

2969

Q. Who is your secretary? A. Mr. Goux at this time.

Q. Who was at the time these affidavits were drawn? A. I think Mrs. Hudgings was at that time.

Q. You told Van Amburgh not to give those out to anybody that asked for them? A. I have no recollection, but presumed he would not.

Q. Did you hear him testify that he gave them out to anybody who might ask for them? A. No.

Q. And that I could have one if I wanted one? A. He said you could have one now if you requested it. That is the way I understood him to say.

Q. I understood him to say I could have gotten one. A. If you had asked me for one I would not have given it to you unless it was for some legal purpose.

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Q. What I am getting at is can you tell any individual in your employ there whom you gave restrictions as to the use of these affidavits to, outside of your secretary? Did you give anybody instructions that the affidavits were not to be given to any person who asked for them? A. I think not.

Q. Did you give instructions to anybody that they must determine that the man was consecrated? A. No; I did not, because I did not think it was necessary.

Q. Did you pass on all applicants to see whether

they were consecrated before the affidavits were sent out? A. I passed on very few and only those I knew personally.

Q. My question is, did you give instructions to anybody that they must determine whether they were consecrated before they gave out the affidavits? A. I think not.

Q. Did you say that this giving out was not restricted to consecrated members? A. No; that was my presumption in my mind that no one else would want them, Judge Oeland.

Q. Was the mere fact that a man was a student of the Watch Tower Bible & Tract Society and read the six or seven volumes, was that conclusive proof that he was entitled to this affidavit? A. It would be no proof whatsoever to me.

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Q. You knew that this large number of affidavits were being prepared and you gave no restrictive instructions to anybody about their use? A. I wouldn't like to say I gave instructions because I have no recollection about it.

Q. Is it your best recollection that you did not give any restrictive instructions about the dissemination of these affidavits, or limited instructions as to their distribution? A. I would have had no occasion, it seems to me, to give such instructions because the presumption would certainly be that they would not be given out to anyone except members of our organization, because they would be of no value to anyone in the world.

2973

Q. Didn't it ever occur to you, having been a lawyer once, that some people might make an improper use of these affidavits? A. I didn't see how they could. That only fixes the status of the organization and they must prove through other sources that they are members of the organization and they would have to prove it by a person who lives in the community where the

board sits and they couldn't prove it by anybody else.

Q. They could prove it by their own affidavit? A. No, sir; the law requires more than that.

Q. It requires his own affidavit? A. It does.

Q. And requires the affidavit of someone else? A. And requires the affidavit of the clerk or minister of the local organization.

2975 Q. Did it ever occur to you that some man who was not wholly consecrated might fool somebody about his consecration? A. If he did, he would have to get something better than an affidavit; that would not help him any way at all, one way or the other.

Q. Did it ever occur to you that this might be used to impose? A. It never occurred to me because that would not help him, unless he had the other affidavit definitely fixing his status as a member of the organization.

Q. Is it your opinion that whether or not a man should engage in war must be left to his own determination? A. Every man's actions must be governed by his conscience, not mine.

2976 Q. Is that your construction of the law, of your creed, that every man must determine that for himself, whether or not he shall engage in war, by his own conscience? A. That could hardly be answered yes or no. I will explain what I understand it to be.

Q. Let me ask you this question. Did you hear me repeat that question of Mr. Van Amburgh's up here? A. Yes, sir.

Q. And his answer was whether or not a man could go into war must be determined by each individual man's conscience, is that correct or incorrect? A. It is partially correct and partially incorrect. Two things must exist.

Q. "Q. Anything that forbids him to take up arms for the Government? A. No, sir; it is up to his own

conscience." A. It must be for him. In other words, that we individually are not to judge another man.

Q. "Q. He can be a soldier and still be a member of your association? A. Yes, sir; if he feels that way about it." Is that your construction of your creed? A. I do not concur in that construction.

Q. Then, it is your construction that no man, who is a member, can engage in war? A. And remain in good standing, no. In other words, if I may answer now, if he is a member of the organization, fully consecrated to the Lord and then engages in war, in mortal combat, he could not be in good standing with the organization, because under our understanding he is not in good standing with the Lord.

2978

Q. Then, you are in good standing? A. I am trying to be.

Q. That is your estimate of it? A. Well, I would not be so presumptive. I am striving each day to be in good standing with the Lord. There are many other things that take a man out besides getting into war.

Q. That being your view of it—that a man who was consecrated must not engage in war, then, that is your idea, that you are opposed to all war? A. If you ask me individually, I say my individual inclination is to go into war, because that has been my ambition from youth to lead an army.

2979

Q. You say that one who is consecrated is opposed to war? A. One who is begotten of the Holy Spirit cannot follow the Lord Jesus and take human life.

Q. Were you in 1917—1918, according to your creed, opposed to all war? A. Opposed to Christians engaging in war; yea. As to others who were not consecrated engaging in war, no.

Q. "Forbids its members to participate in war in any form and are against war in any form"—A. Let me tell you just the difference between an individual and a new creature—

The Court: The question is whether Mr. Van Amburgh spoke the truth when he made that affidavit?

The Witness: Yes, sir.

Q. It says here: "Forbids its members to participate in war in any form and are against war in any form?" A. Yes, sir.

Q. You are a member? A. Yes, sir.

Q. Then you must be against war in all forms?

A. So far as consecrated Christians are concerned; yes.

2981 Q. You don't take the position that while it is wrong for members of your association, it is all right for all the rest of us to go ahead—you don't advocate that? A. Not advocate it, no.

Q. You don't think it would be wrong for the rest of us? A. No; I do not, but I will tell you the reason why. I would like to answer why.

By Mr. Oeland:

Q. "Forbids its members to participate in war in any form, and are against war in any form." You say that met with your hearty approval? A. So far as it applies to consecrated members of our association, yes.

2982 Q. You wouldn't have anyone else do what you don't want to do, would you? A. That is their business, not mine. I am not the keeper of the conscience of other people.

Q. You say that you were in favor of the Selective Draft Act? A. I didn't say that, Judge Oeland. I said I am not opposed to it because the Government has made it the law, and I think everybody ought to obey the law.

Q. Were you not in favor of the Selective Draft Act? A. I have not expressed my opinion for or against. I bow to the mandates of the Government, and when the Government says we are going to raise an army the Government has a right to do it.

Q. My question is: Are you in favor of the Selective Draft Act? A. I don't know how I can make it more specific than I have.

By the Court:

Q. You can say yes or no, as to whether you are in favor or opposed to it? A. As a new creature in Christ I have not anything to do with it. It is not my business.

By Mr. Oeland:

Q. You had a good deal to do with it? A. Only 2984
for the purpose of helping get proper classification under the law.

Q. I understood you to say a little while ago that you were in favor of the Selective Draft Act? A. The record will not so state. I said I was not opposed to it.

Q. If you are not opposed to it, you are not opposed to it because it is a law, is that the idea? A. That is exactly so, because the Government says it is.

Q. But in your conscience and behind the law and underneath the law you are opposed to the Selective Draft Act or anything that calls men to war? A. That calls consecrated Christians to war, but not unconsecrated Christians. 2985

Q. Then, it is a pleasure to see them fight? A. That is not it at all. There is no power in Heaven or earth that could have kept this Government out of the war. I said that in Washington, D. C., in a public address three months after the war began.

Q. I say going behind the act, are you opposed in your conscience and your heart against the Selective Act because it calls men into war? A. That is presupposing a thing that does not exist, and it is calling for a conclusion that I could not reach, because it does not exist.

Q. Feeling that way you wrote the Insberg letter, didn't you? A. May I see the letter?

Q. Yes (showing). A. I read this letter into my dictaphone. The dictation does not always record plainly. It is practically correct but one or two sentences, maybe a little difference in a word, but I read that letter into the dictaphone and it was copied by one of my stenographers.

By the Court:

2987

Q. Do you repudiate any part of it? A. I do not repudiate it, but there is one or two phrases in there a word should be changed. I don't know if it would be material and affect the letter.

By Mr. Oeland:

Q. You did frequently authorize the signing of letters by a rubber stamp? A. Most of my letters were signed that way.

Q. And that stamp that that letter bears was one that you authorized to be used for that purpose? A. Yes, sir.

Q. Now tell us wherein you would like to change the letter? A. I have my own copy marked.

2988

Q. When did you mark it? A. After you gave me this copy, the one the Government furnished the other day, furnished our counsel.

Q. When did you get that copy? A. I got it when the Government served our counsel.

Q. That was on Monday of the 4th, the evening of Monday? A. Probably I saw it a day or two after, somewhere along there.

Q. Did you see it before Mrs. Hudgings testified on the witness stand?

Mr. Sparks: He had it before the case commenced.

The Witness: But that had nothing to do with it. Mrs. Hudgings did not write the letter. Now, if you will follow this one, it is in the third paragraph.

Q. (Reading.) "Mr. A. Insberg, 11 North Square, Boston, Mass. Dear Brother: Yours to hand. It will be impossible to get General Bell to write in a letter in your behalf. I had a long interview with General Bell, and know how he feels about this matter. He would be glad to help the boys out insofar as he can, but his views are so far different than ours that he will take no steps to help anyone who does not put on the uniform and drill.

2990

"The law passed by Congress last May provides that anyone who belongs to a religious organization, the principles of which are against war in any form, shall not be compelled to engage in military service, and then adds another clause that no one shall be exempt from any service that the President may decide is noncombatant. The Government cannot exempt under the law from noncombatant service; the boards are exempting very few from any kind of service. As to whether you will take noncombatant service or refuse must be determined by yourself. It seems to be a time of special persecution upon those who have the faith once delivered unto the saints. The International Bible Students' Association comes clearly within the spirit and letter of this law, and anyone making proper affidavits should have the benefit of it. In some places the exemption boards are recognizing this and exempting the brethren; other places, no.

2991

"We know that the present institutions are unrighteous, because controlled by imperfect men. We know that the present order is Babylon, and that the day has come for it to go down in a great time of revolution and anarchy which shall follow the war. We know that the Kingdom of our Lord is near at hand, and having consecrated ourselves to Him, we

must pay our allegiance to the Lord. If officers of the present governments disregard the law, there is nothing we can do, nor can a consecrated Christian"—

The Witness: Just a moment—"nor even can consecrated Christians engage in war in any form."

Q. (Continuing.)—"nor can even consecrated Christians engage in war in any form." Is that correct? A. "Nor even can consecrated Christians be compelled to engage in war in any form."

2993 Q. What makes you think that is what you dictated, and the dictagraph got that wrong? A. Because that is the fact.

Q. Is that your recollection, or is it from something that aids your recollection? Is that your bare recollection unaided? A. Because that was the thought in my mind.

Q. You have not anything to help your recollection? A. I have not. I think I dictated it in that way.

Q. It is a mere matter of memory? A. Yes, sir.

Q. You hadn't thought about it until you got the letter about the third or fourth or fifth of the month? A. I had not.

2994 Q. (Reading.) "You do not state that your application for exemption has been denied; but if so, then there is only one of two things you can do—go to war, or refuse to take a part in the conflict in any way and receive the consequences." Is that correct? A. I think that is correct.

Q. (Continuing.) "If you feel that you cannot conscientiously have anything to do with the present war, then you will refuse and let the officials take their own course. You will probably be confined in prison or shot. If confined in prison it may be the Lord's way of giving you an opportunity to witness to the Truth. Probably the Lord wants some of His saints

in prison for a while to tell the element they meet there that the Kingdom of Heaven is at hand and soon all their sufferings will cease if they turn to righteousness. Have in mind, dear brother, the experiences through which the faithful ones of old passed as described by St. Paul, Hebrews 11, only that they might have a 'better' resurrection. Having this in mind, let us count it all joy to be partakers of the sufferings of Christ.

"I assure you, dear brother, that I shall take up this matter with the President, and do all that I can to have the brethren relieved, believing it to be the Lord's will that we take all legal steps possible; but if these fail (and the chances are they will) then be a brave and valiant soldier of Christ. If you are shot because of the stand you take for the Lord, that will be a quick method of entering His glorious presence. If you are confined in prison, write me as often as you can and as long as the Lord gives me opportunity I shall be pleased to do anything I can for you. In any event, may He comfort you and strengthen you and bless you in your own dear heart and give you just such experiences as may be necessary to bring you an abundant entrance into His glorious presence. We are enclosing two extra forms of affidavits, No. 143, as you have requested. With much love and best wishes, I beg to remain, Your brother and servant by His grace, J. F. Rutherford." Was that the only change you could see that ought to have been made? A. Well, only some minor ones, but that is practically all the change.

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2997

Q. You say that you don't know whether the board had acted on his application or not? A. He had not stated—

Q. I ask you if you knew whether or not his plea had been rejected by the local board? A. He did not so state. Evidently from this paper, I have no independent recollection of it.

Q. You say there is only two things he can do, go to war or refuse to take part in the conflict in any way and receive the consequences? A. I don't know what else I could have told him. He would either have to obey the law and go to war and if he was not exempted to take the consequences.

Q. Did you mean to convey to him the idea that he should resist the military authorities? A. I did not.

Q. Never had that in your mind? A. No, sir; it was not in my mind.

2999 Q. You didn't think they would shoot him unless he did resist authority, did you? A. Certainly not.

Q. What did you have in mind in telling him that he might be shot? A. I was stating the alternative; so he would understand his position. I knew Insberg, I knew him to be fully consecrated to Christ.

Q. Do you really think he is a consecrated Christian, a man that don't want to fight? A. I think he is a fully consecrated Christian and you never saw a consecrated Christian who was a coward.

Q. Do you think anyone could get Insberg into a fight when the running was good? A. I repeat what I said, that no consecrated Christian is a coward.

3000 Q. Did you hold out the idea to him that if he was confined in prison it would be the Lord's way of giving him opportunity to witness the truth? A. I did not hold out the idea. I knew the position he had taken and I understand that the Lord undertakes to direct the course of every one of his children, and if he was confined in prison, probably that was the Lord's will to give him an opportunity to witness there the good things that are coming to the world.

Q. Did you mean to encourage him in the idea that going to prison was better than doing anything in the military— A. No, sir.

Q. At that time you didn't know whether his name would be accepted or rejected? A. I knew what he

had told me in Boston, that he did not intend to take any part in the combative service.

Q. What was form 143 that you refer to in your letter? A. I would not wish to state offhand without looking at the form. It is one of the forms required by the first requirement before the questionnaires were used.

An adjournment was here taken until Tuesday, June 18, 1918, at ten o'clock A. M.

Brooklyn, New York, June 18, 1918.

The court met pursuant to adjournment at ten A. M.

Present: Parties as before.

JOSEPH F. RUTHERFORD, recalled, testified further as follows:

Cross-examination continued by Mr. Oeland:

Q. You took a good deal of interest in lecturing on the subject of the war throughout the United States?

A. I delivered a lecture once each week, not particularly on the war.

Q. You had a lecture called "Why the Nations War"? A. Yes.

Q. You delivered that lecture all over the United States? A. Not all over the United States, in many places.

Q. I mean practically; you delivered in the west? A. I think so.

Q. On the Pacific Slope? A. I think so.

Q. And in the east? A. Yes, sir.

Q. When did you begin delivering that lecture? A. I couldn't state definitely when, without looking at

3004

Joseph F. Rutherford

my memorandum book, but I think some time in 1916.

Q. The latter part of 1916? A. Probably so. I can be definite by looking it up, but I think about that time.

Q. It then became apparent to you as a thinking, reading man that the United States might be forced into this war? A. I reached that conclusion from the prophecy that the United States—

3005

Q. Let us leave out the prophecy. Let us get to what you thought? A. That is the reason I reached that conclusion.

Q. This war was a part of your plan of salvation? A. No.

Q. Part of your prophecy? A. Not at all. Part of God's plan and His prophecy.

Q. You foretold this war? A. The prophet twenty-five hundred years ago foretold this conflict. I merely referred to the prophecy.

Q. It was clear to you as a Bible student the war was on and we would be in it in the latter part of 1916? A. Just how we would get in it, I did not know. The prophecy showed there would be some connection between this Government and the other warring nations.

3006

Q. Was that your purpose in delivering the lecture, "Why the Nations War"? A. My purpose was, as always has been, to inform the people as to what the Scriptures teach.

Q. You had the subject of war very much at heart? A. I wouldn't say that, Judge Oeland, because it was due time to speak of these things. Everybody was talking about the war. I was talking from another standpoint, from the Scriptural standpoint.

Q. You delivered the lecture? A. Yes; that is in print.

Q. You delivered that in Oklahoma City? A. I think I did.

Q. Subsequent to that time a whole carload of "The Finished Mystery" was shipped there? A. A long time afterwards.

Q. Were they, subsequently? A. Yea, and stored there; not for distribution, for storage.

Q. They got there? A. I am informed they got there.

Q. What other points did you deliver the lectures at? A. I think—I have a memorandum, I will refresh—

Q. Every point you delivered that lecture at you subsequently shipped books to? A. No, sir.

3008

Q. What point did you lecture at and not subsequently to? A. There was no connection.

Q. I ask you after, subsequent to the lecture? A. It may have been the shipping of these books was for the purpose of distribution, I would like to say that—

Q. We will get to that. I will ask if it is a fact that at the places you delivered lectures you subsequently shipped books? A. Some of the places I would say yea. I wouldn't say all, because I don't know.

Q. Don't you think mostly all? A. That would be merely a guess, without looking it up.

Q. You spoke of the origin of "The Finished Mystery." Isn't it the truth there was not a dollar put into "The Finished Mystery" from outside sources after the 17th of July, 1917? A. No; there was.

3009

Q. Isn't it the truth that the Watch Tower Bible & Tract Society paid for the printing of "The Finished Mystery" after July 17th, 1917? A. No, Judge Oeland, that is not the fact.

Q. How much money was put in it prior to July 17th, 1917, by outside parties? A. \$5,000 of Mr. Butterfield's money was put in it, paid at different times.

Q. Who was it paid to? A. I paid part of it with

my own personal check to Conkey and other expenses, and subsequently there were some bills the society had to pay to other parties. I paid them instead of putting the money into the society, and the society gave me credit for that some time later. I don't know if I make that clear.

3011

Q. You don't to me. A. The society owed a gentleman in New York some money. I paid that myself with my personal check out of this money instead of paying it into the society, and subsequently the society gave credit for that, credit to Butterfield, some time in the fall of the year, for \$5,000.

Q. Wasn't everything, every contribution that was used in the publication of "The Finished Mystery" made before July 17th? A. The contribution, yes, because I received the money before that time. Let me correct that. I remember one letter came in subsequently from one of our members; it was brought up to me from the office and shown to me, for \$7,650, with a special request it should be used for the publication of "The Finished Mystery"; that was after July.

Q. Whose check was that? A. I cannot tell without looking it up, some gentleman out west; Mr. Martin can probably tell.

3012

Q. What was done with the money? A. It went into the fund used for that purpose, part of it in the general fund. The books will show.

Q. What was the date of it? A. I think some time in August, August or September.

Q. Let us go back to July 17, 1917; Mr. Butterfield's contribution was made prior to July 17, 1917? A. Yes.

Q. After the contribution of \$5,000, who paid for the publication of "The Finished Mystery"? A. The Watch Tower Bible & Tract Society.

Q. Did you afterwards pay back the loan to Mr. Butterfield? A. No, sir; he was given credit on the books, that was a contribution.

Q. What? A. It was not paid back to him; he was given credit on the books as a contribution.

Q. Wasn't he given credit as a loan account of George W. Butterfield? A. Not to my knowledge. I never saw any such entry on the books.

Q. Look at this? A. That appears there, why it was counted as a loan, I don't know. I know the other book I examined shows he was given credit for \$5,000 contribution. Let me see this. You will see that is G account, that "G" means "The Finished Mystery."

Q. This book was known as series seven, "Finished Mystery," or G, A, B, C, D, E, F and seventh "G"? A. That is right. 3014

Q. This is the account of Volume G. You find here an entry of October 13th, loan account, of George Butterfield, \$5,000? A. I think the books will show that the day he was given credit for \$5,000 contribution, another record, I haven't seen that account before, it is not my business to keep the books.

Q. That is put on the books as a debit, that would mean that much cash went out of Exhibit G, you charged Exhibit G with so much money paid out? A. Mr. Van Amburgh who made the entry knows better about that; I don't know. 3015

Q. You cannot? A. I don't know. I know I paid the money in and that is all I know about it.

Q. Did you pay any of your own money into the account of Exhibit G? A. I think I paid some, probably a little more than the amount contributed.

Q. How much? A. I don't recall.

Q. When was it? A. I couldn't say that without looking at my memoranda. If you have something there—

Q. Just approximately? A. It was not very much, because I did not have very much to pay.

Q. Was it over \$500? A. No, it would be less than that.

Q. Look at this, August 20th, credit from J. F. R., \$600? A. I have check here, that is part of the contributed money.

Q. How did you get credit for it? A. I don't know. Here is a check I signed for that \$600, July 18.

Q. No, this is August 20th? A. I don't know anything about it. I did not pay any but one. I don't know how that got there.

Q. There is nothing on this check to show it was Mr. Butterfield's money? A. No, but it was. Paid to Mr. Conkey.

3017 Q. After July 17, 1917, the "Watch Tower" formally paid these bills for the printing of this Volume G, of the "Seventh Mystery," "The Finished Mystery"? A. Yes.

Q. But prior to July 17, 1917, there was not a dollar paid out formally by the Watch Tower Bible & Tract Society and entered on its books? A. I think that is correct. Not very much money was required to be paid by Mr. Conkey on the first account.

Q. If there was any money paid prior to July 17th— A. I would like to ask the privilege of explaining that, if it is not forgotten?

3018 Q. I won't get off it, I won't forget it, I am coming back to it in a minute. Yesterday I examined you about the affidavit made by Mr. Van Amburgh. You stated you participated in the preparation of that affidavit, or such matter as went into it? A. I think that is true.

Q. Did you prepare an affidavit yourself in reference, or to be used, by the Draft Board? A. I made some affidavit on request, some on request of the board in New York, not the Appeal Board. I cannot think of the name of the board just now, it is the legal advisory board.

Q. This one that you prepared? A. This seems to be a blank affidavit not executed.

Q. Did you sign that? A. That is my signature.

Q. How many of these did you have made out, and signed in blank? A. Well, very few. Probably this was not executed for some other reason, the notary—

Q. Look at all these and see if you did not prepare those? A. They did not go out of my possession, without my knowledge.

Q. Did you prepare them? A. I did not prepare them. This appears to be my signature.

Q. Did you sign them? A. Yes.

Q. You signed them in blank? A. But I swore to a number before my notary and they were in the possession of my secretary not to be sent out except under my directions. 3020

Q. These are blank affidavits signed by you and in your handwriting? A. To be used for a specific purpose.

Q. Answer my question? A. I have answered your question. Now, I ask the privilege of explaining.

Mr. Oeland: I offer them in evidence.

Mr. Fuller: We object on the ground that they are incompetent, irrelevant and immaterial, on the further ground it is a paper taken from our possession in violation of Amendments 4 and 5 of the Constitution. 3021

The Court: And this is one of the papers included in your motion to have the papers returned?

Mr. Fuller: Yes.

The Court: The Court having denied the motion you took an exception to the admission of the paper. That raises a question for review.

Mr. Fuller: Your Honor admits them in evidence?

The Court: Yes.

Mr. Fuller: Exception.

3022

Joseph F. Rutherford

The Court: They are objected to on the ground they are incompetent and immaterial. I don't know what it is.

Mr. Fuller: You will note my exception on that.

Q. Was this affidavit signed by you prior to the one you assisted Mr. Van Amburgh in preparing? A. No, sir.

Q. It was afterwards? A. It was signed about the middle of January this year.

3023

Q. 1918? A. Yes.

Q. How many of these did you sign in blank, I mean by "in blank," without the man's name being put in, whoever the registrant was, and without they being signed and sworn to? A. I think you have about all there that were signed that way.

Q. Who was your secretary at that time? A. Mr. Goux, from about the 10th of January, but there is another young lady stenographer in my office all the time, Miss Barber.

Q. Are you aware these were found on Mr. Robison's desk? A. No, that file was taken out of my office.

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Q. By whom? A. I don't know.

Q. My question is are you aware they were found on Mr. Robison's desk? A. I am not aware of anything of the kind. I left them in my office when I left.

Q. Who took them out of your office? A. I don't know.

Q. They left the name of the registrant blank and they left the place to be subscribed and sworn to blank before a notary public? A. Yes.

Q. You said a moment ago you wanted to state why you did this. A. We had at the Bethel Home a school which is conducted along—according to the terms of

that affidavit. A number of young men, most of them are living in the home, some living out, attended there. I knew them each personally. I was very much pressed for time, I was leaving for California, and had to take my wife to California, and had to go at a certain time. The list of these men was known to the men in charge of my office. I signed one or two of these affidavits that had to be attached to the questionnaire. They could not be attached until the time of the filing of the questionnaire was due. I signed a few extra in the presence of the notary so that the names of these men in the home I knew personally, who personally came there, but whose time for the questionnaire had not come, but not to go outside of this place, and that they were for no one except those who attended in person. None were to be sent out, none were sent out. A copy of that was filed with 423. It merely sets out that we have a divinity school there under the terms of the charter and states I knew them to be taking that instruction.

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Q. Are you finished? You left them signed in blank so the notary could take the acknowledgment in your absent? A. The notary had taken my acknowledgment.

Q. You left it so he could fill in the acknowledgment in your absence? A. Yes, sir.

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Q. You say you knew them all. Why didn't the notary fill them in then and there? A. I didn't know. I was in quite a rush to get away. I didn't have time to talk. I had to sign.

Q. Who was the notary? A. Miss Louise Munser.

Q. Where is she? A. I think in Denver, Colorado. She was working in a law office for several months in New York.

Q. Where did she live in Denver? A. I really don't know, but she came to the Bethel whenever we desired her to take acknowledgments. Two years ago she was a member of the family.

3028

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Q. Did you have any other notary there? A. No.

Q. Do you know when she went to Denver? A. She went to Denver about a month ago. Her mother lives in Denver and was sick. She went there for that purpose.

Q. She has done no work since that time? A. Not that I know of.

Q. Why didn't you use the same notary that Mr. Van Amburgh did? A. I did not know. I seldom go to that notary, he is up in Mr. Carey's office. Miss Munser came there to take my acknowledgments and save my time going out.

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Q. You don't know why she did not fill—you knew the names of the people you expected to use these? A. Yes.

Q. You don't know why she did not fill in the acknowledgment? A. I do not.

Q. Or why she did not sign them? A. I don't know. My acknowledgment was taken on all of them at the same time just before I went away.

Q. How long were you gone? A. From the 1st of January to about the 5th of March.

Q. What was the date you made these blank affidavits? A. It was some time in January, but I would not state the exact date. It might have been around the 15th or 16th.

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Q. You think it was around the 15th or 16th? A. Some where around there.

Q. You say you were about leaving, what time did you leave? A. The 16th.

Q. You say you were so rushed, it must have been about that time? A. Whether she was there that day or the evening before—

Q. Don't you know as a matter of fact all the questionnaires had to be in by the 10th of January? A. I don't know; some of the affidavits had to be filed after that.

Q. Don't you know the affidavits had to be attached to the questionnaires and must have been returned January 10th? A. I don't recall now whether that was true or not.

Q. You do know they had to be attached to the questionnaires? A. Where an application was made as a divinity student, yes.

Q. That is what these affidavits were made for? A. That is exactly so.

Q. If it be law that it had to be in by the 10th of January, 1918, are you not mistaken about the time you signed them? A. I might be mistaken about the time. Miss Munser would come from the office where she worked when I wanted to make affidavits, when I did make one, an acknowledgment to a deed or something and took it. It was some time in January. I know my impression was it was the day I started for California.

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Q. You are vivid in that recollection that you were pressed to get away? A. I am often pressed to get away somewhere else. That is not unusual for me to be pressed to get away for some engagement. I know I was rushing away somewhere. I am looking to see where I was from the 1st of January on.

Q. Don't you know as a lawyer for anyone to fill in this after you signed and acknowledged it, fill in the name of the registrant, etc., would be forgery under our law? Isn't it the reason the notary didn't fill it up? A. That is not the reason.

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Q. You say you are a lawyer. Don't you know it would be forgery for a notary to say I will in John Smith's name, as registrant, after you made an affidavit, without you filling in? A. I don't know that that was true. I signed these affidavits in the presence of the notary, in the presence of my clerk.

Q. You didn't fill in the name of the registrant, you left that to somebody else? A. I left my clerk to fill in all there together.

3034

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Q. You didn't take your acknowledgment before your clerk? A. No, the notary was there and took the acknowledgment.

Q. Look at this instrument I hand you, I ask you if you prepared that or dictated that. A. I did not prepare this. I saw a copy of this once written by a young man in Ohio. I did not prepare this.

Q. When did you first see that, Mr. Rutherford? A. I am unable to say just when I first saw that. Someone out in Ohio sent me a copy of it. I think I would not be able to tell just when, Judge Oeland.

3035 Q. It was in the latter part of 1917, or the first part of 1918? A. Probably in the first part of 1918.

Q. What was done with it when you got a copy? A. I think I destroyed the copy, I have not seen it since.

Q. Were any of them prepared there in the "Watch Tower Bible & Tract Society? A. Not to my knowledge.

Q. What was the occasion about getting it from this out west? A. I don't know, some young man sent me a copy and said he sent something similiar to the Local Board.

3036 Q. Don't you know that was used by Mr. Dutcher, the man Mr. Van Amburgh's affidavit accompanied? A. No, if I heard of it I don't remember. I had nothing to do with it, I am sure of that.

Q. Did you know of it being used by other registrant? A. No, I heard one registrant in Brooklyn signed a similar affidavit, not this one, but something similar to this.

Q. What was his name? A. I think Mr. Mayberry.

Q. Don't you know he used that same form of letter or affidavit, whatever you call it? A. I don't know. I did not see it, I was away. I heard he had written a letter to the Local Board.

Q. Who told you he had written to the Local Board?

A. I couldn't say that, someone told me he had written a letter when I returned.

Q. How did you know it was the same? A. Not the same as this, but a similar—of similar import, I think, I saw a copy of it afterwards.

Q. Do you know of anybody else who sent that? A. I have not any recollection of it, no.

Q. Did you give any instructions of blanks to be made of that or copies? A. No.

Q. You say you destroyed the copy you got? A. I think so, I am pretty sure I did, I had no occasion to keep it.

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Mr. Oeland: We ask this be marked for identification.

Marked for identification.

Q. Was there any letter accompanying this when you got it from out west? A. I think so.

Q. What was the man's name that sent it to you? A. I could not recall now, some young man in Ohio.

Q. You couldn't remember his name? A. I cannot remember his name. If his name was called I would recall it.

Q. Was he fully consecrated? A. I do not remember that.

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Q. You got a letter? A. I did. If I had the letter I could, if he stated anything about his religious belief.

Q. You cannot give us the date you got it? A. I think sometime the first of this year; I would not state positively, Judge Oeland.

Q. You did not give any instructions to use that? A. No, sir. My mail is opened by my secretary usually, laid on my desk. I found amongst my mail an affidavit or letter, similar to that, probably the same thing, but I had nothing to do with it.

Q. You read that over? A. Yea.

Q. Anything in it that you think objectionable? A. I am not passing my judgment on it.

Q. I ask you at the time you read it did you think it was? A. I hardly think it would be a proper thing to send out.

Q. That recognizes the man presented his claim to the Local Board, and had been refused? A. That paper does.

Q. It goes on to say, that being true—

Mr. Sparks: I object to him stating what is in a letter not offered in evidence.

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Mr. Oeland: I asked him if there was anything—

Mr. Sparks: Here is a letter not answered. We cannot be made responsible for everything written to us. Anybody can write letters and send them in. Unless there is some action taken with reference to them, how are they admissible in this case—I cannot see how they are admissible or competent in this case?

The Court: That is the rule, isn't it?

Mr. Oeland: Yes, I think that is correct. I will withdraw the question.

3042 Q. Now, we get down to the acknowledgment—
Now, then, we get down to the management of the office force. Did you give Mr. Robison instructions before you left there? A. I gave him some instructions in writing. Mr. Robison has that. That is the only instructions I gave him.

Q. Did you know he was to answer the inquiries from draft members? A. Yea.

Q. You intended him to do that? A. I intended him, of course, to answer those letters.

Q. Did you know Mr. Van Amburgh was to answer some of the letters? A. I did not. I gave him no instructions. I merely asked Mr. Robison to take over

certain mail that would come to my desk in my absence.

Q. Did you leave him a list of printed matter to look after? A. I dictated to the stenographer a statement of forms he should use.

Q. Is this it? Is this a copy of it? A. That is not the form. I never saw this before. I have since seen the paper I gave to Mr. Robison. That is not it.

Q. Did you ever see that before? A. I never did.

Q. Didn't you hear Mr. Robison testify all you left him was a blue typewritten list with reference to printed forms? A. Yes, that is not blue. The instructions I left him were on letter sheets, blue letter size, my recollection is it was a letter sheet.

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Q. Don't you know who prepared that? A. I do not, I never saw it before.

Mr. Oeland: I ask this be marked for identification.

Marked Exhibit 36 for identification.

Q. You heard Exhibit 15b in evidence, the letter of Mr. Van Amburgh addressed to Mr. L. J. Towne. "We have no further suggestions we can make except that Brother Rutherford has suggested in cases of necessity the brothers refuse to respond to the call, and if necessary submit to arrest." You did not discuss that with Mr. Van Amburgh? A. I did not. I would like to explain. I think that is ill-advised language.

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Q. He wrote the letter, I don't want you to explain what he wrote. A. I want to explain what I had said.

The Court: You may do that.

The Witness: I had made the statement that some boards were granting exemption and some not, and in order to test the question it would probably be necessary to get a writ of habeas corpus and have it tried in the civil courts and in that event an arrest would have to be made. That was never done. I advised with

counsel about the advisability of testing the question. Probably as Mr. Van Amburgh heard me testify he was talking about a habeas corpus.

Q. Don't you know as a lawyer, if a man is in camp or is under arrest, you can sue out a writ without putting him under arrest or locking him up? A. If he is there under an officer.

Q. Don't you know it has been done? A. I know some tried it and did not succeed.

3047 The Court: Don't you know a writ of habeas corpus is for the purpose of testing any imprisonment?

The Witness: I know if he was not under restraint it could not lie.

Q. He would be under restraint if in the army? A. Not if it was voluntary.

Q. Didn't you advise Mr. Van Amburgh you wanted somebody to resist compliance with the military orders so you could get out a writ of habeas corpus? A. I did not advise Mr. Van Amburgh about the military act, and his statement was wholly voluntary on his part.

The Court: Untrue?

3048 The Witness: He may have heard—

The Court: You did not tell him as he says, some one should refuse duty?

The Witness: I did not tell him that because when I got ready to make that test, I would deal with that action without advising Mr. Van Amburgh. I considered it with one man in Brooklyn, discussed it. While we had the matter under consideration the man was taken to camp. After further interpretation of the law we abandoned that view.

Q. Mr. Van Amburgh was not stating the truth in his letter? A. I don't want to say he was stating an untruth, in stating what I said to him most assuredly.

Q. Did you write this letter to Mr. Jerry DeCecca?
A. I dictated that letter.

Q. And sent it to Mr. Jerry DeCecca? A. I presume my secretary sent it, I did not.

Q. Was your secretary travelling with you at Houston, Texas? A. Yes.

Q. That stamp there is an official stamp? A. It is one he had, a stamp he carried with him.

Q. He had it with his authorization? A. Certainly. I would like to explain in reference to that letter. It has no reference at all to the draft.

Q. Did you ever see this letter?

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The Court: If you are going to offer the other letter?

The Witness: If I could explain?

Mr. Oeland: It is in.

The Court: Then I think he can explain, you may explain.

The witness is referring to Exhibit 28.

The Witness: This letter is in reply to a letter read to me by my secretary either on the train or at the hotel, because I answered many letters on the train, a letter from Jerry DeCecca, evidently, to the extent they were having opportunities of study together. I knew Jerry DeCecca was a conscientious objector, I knew he was a consecrated Christian. I had seen him personally at the Bethel Home when he visited his brother there, and this letter is merely a letter of Christian greetings, similar to what I have written to many a person not in the draft at all, and which is the expression used in many of our letters to our people without reference to whether they are in the draft or otherwise. It merely says "Your very kind letter, and I rejoice with you that the Lord is giving you privileges of fellowship together and study of His word. Be of good courage,

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Dear Brethren, and hold fast." That is clearly a quotation from the Apostle Paul's language, and St. John's language. "A little while and the fight will be over," clearly referring to the true fight of right. "And then you will be glad that you stood firm in the Lord and the cause of righteousness." Having no reference to anything but the truth, many had been shaken out. "We remember you continually at the throne of grace and ask a continued interest in your prayers." Merely a letter of Christian reading, it had no reference to his standing as a conscientious objector.

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The Court: It is a form letter?

The Witness: I would not say a form letter. But one gets in the habit of writing the same language.

The Court: Didn't you make a practice of using form letters, such a large correspondence?

The Witness: Some particular form, but I would say that is a form letter almost in language. My secretary did not bring form letters with him.

Q. How many signed the letter you got? A. I did not see the letter. My secretary opens the letters, and says, a letter from so and so, gives me the substance, I dictate the answer. My correspondence covers a large scope, conscientious objectors is a small part of it.

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Q. You notice this is written to Brother DeCecca and others? A. I see it is. Evidently it was signed by others.

Q. When he wrote the letter you knew he was in camp? A. I must have known it, evidently was told. Probably I knew it independently.

Q. Didn't you know he was refusing all military duty? A. I did not.

Q. Didn't he tell you that in the letter? A. No, sir.

Q. Didn't Giovanni DeCecca tell you that? A. I never talked to Giovanni about his brother, except

he asked me about employing a lawyer. I heard that read.

Q. Is that correct? A. I have no recollection, but if he asked me, I probably told him it would be a good thing to get a lawyer, some opinion.

Q. They told him the harmless part, but not the harmful one?

Mr. Sparks: I object.

The Court: The question is proper on cross-examination.

Mr. Sparks: Exception.

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Q. There is the letter. A. I never saw this letter, knew nothing about it until it was produced at the hearing before Commissioner Cahoon. I have no independent recollection about this matter at all, but he says here: "I have told to Brother Rutherford about your case, that you are under arrest and awaiting Marshal's decision. I asked him if you should have a lawyer in defending your case and he said that might be a good thing." If I told him anything else I have no recollection; I am quite sure I did not. I surely would not say this about any lawyer, this part "they are all afraid to speak anything that would have a tendency against the Government. They are all for war, and anyone who thinks differently is no good, they said." Surely he did not quote my language—he did not quote me in what he said. If so, it would be unprofessional, in the first place, and in the second place, I do not talk about the legal profession that way.

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Q. You did talk about part of it? A. I have no recollection; he probably asked me. This is the custom. After a meal anybody who wants to ask a question comes along then and asks it.

Q. You say this letter you wrote to Jerry DeCecca—was he fully consecrated? A. I think so; that is my recollection.

Q. He was not consecrated until July, 1917? A. I don't know when he was consecrated. I met him in the Bethel Home some time in the summer of 1917.

Q. Don't you know he was not consecrated until after the war started? A. I don't know about that.

Q. When did you first meet him? A. I probably met him more than a year ago.

Q. Was he consecrated at that time? A. I had no talk with him at that time.

3059 Q. You saw him? A. I saw him in the dining room.

Q. When did you learn he was consecrated? A. Some time in the summer of 1917.

Q. After the war? A. I think so; I had no occasion to learn it before, but I don't know when he made a consecration.

Q. In the organization of your office there, you were the head of it? A. Yes.

Q. You knew Mr. DeCecca was attending to the Italian Department? A. I knew he was at the Tabernacle answering correspondence; he was not near me. I knew we had a printed rule as to what he should do. That rule is here and shows his duty.

3060 Q. Who put him in charge of that work? A. He was put there by Pastor Russell several years ago; I did not change him when I took charge.

Q. You did know in 1917 and 1918 he was answering the Italian correspondence? A. I knew; yes, sir; he was looking after Italian matter.

Q. You knew Mr. Van Amburgh looked after the books? A. He was the treasurer. I would like to say I knew DeCecca had no authority to send any letter from the society, signing the society's name.

Q. How is that? A. Mr. DeCecca had no authority to send out any letters to which the society's name was signed; all such letters must be signed by the office manager.

Q. Who was he? A. Mr. Martin. This appears to be a personal matter, however, nothing to do with the office business.

Q. Do all the letters have to be approved by Mr. Martin that go out? A. That is the instructions; no society letters shall go out of that office unless they are passed to Mr. Martin, Mr. Martin's desk.

Q. All of Mr. Van Amburgh's and Mr. Robison's letters— A. No; Mr. Van Amburgh, as treasurer, should attend to his own correspondence. Mr. Robison was at 122.

Q. Did anybody's else letter have to go through his hands? A. Everybody's had to, except Mr. Van Amburgh, who was an independent office, but no one at 122 Columbia Heights. We have a number of correspondents. We do not care to risk them sending out correspondence, but hold one man responsible. 3062

Q. Therefore, Mr. Martin should pass on all letters? A. All letters that went out from the correspondence department.

Q. Did you fully approve of the seventh volume? A. As a whole, yes; as a book.

Q. Everything that was in it as a whole? A. The Jefferson article I did not read. The John Hays Holmes article I did not read for the reason that the Jefferson article was published in the "Watch Tower." I took it for granted that what Pastor Russell published was not necessary for me to pass on, and the Holmes article was inserted after I read the manuscript, and while I read all the book since it is published, I particularly studied the first seven chapters and the fourteenth chapter of Revelations, and more particularly Ezekiel. 3063

Q. When did you first read the Holmes article? A. I first read the Holmes article the 5th of March, 1918.

Q. Then did Mr. Woodworth have authority to

put in matter you had not seen? A. There was nothing said about that. He was to prepare the manuscript and the manuscript was sent to me, and I supposed, of course, it was all there. I gave Mr. Woodworth instructions to give the manuscript, to cut the manuscript down and to fix it so that all the pages would be full. The Holmes article was not in the original manuscript sent to me, as the manuscript shows. It was subsequently added.

Q. Did you approve of the Holmes article? A. It does not express my sentiments.

Q. Did you approve of it in 1917? A. I couldn't approve of it when I did not have knowledge of it.

Q. What is the objectionable part of it? A. I think it is rather an exaggerated statement, in some respects.

Q. You did read the part about patriotism? A. I did.

Q. You approved that? A. I approved that at the time with the thought I had in mind, and think yet, and I would like to explain what I thought it to mean. I read that, as I stated yesterday, in the spring, or some time about the 1st of March, and this says: "Standing opposite to these, Satan has placed three great untruths, human immortality, the anti-Christ, and a certain delusion which is best described by the word patriotism." "Human immortality," which the Lord Himself says was the first lie ever delivered, and it has been a great deception ever since, "the anti-Christ and a certain delusion which is best described by the word patriotism."

Q. You did not read it correctly. A. "And a certain delusion which is best described by the word patriotism." Further down, in brackets, you will see "A narrow-minded hatred of other people." That is not patriotism. I had in mind the sentiments of European people, of personal knowledge I had from

mingling with the people of Europe. I made an extensive trip through Europe and Asia in 1910, and studied conditions. I did the same thing in 1913 and 1914. Knowing the conditions prevailing then, a few men controlling the people, stirring them up, English against the Germans, and Germans against the French, I thought it expressed a narrow-minded hatred far from patriotism. Patriotism means love of country, a willingness to sacrifice one's self. But I know from expressions I heard people make, I heard in my travels, this was not patriotism. Explaining the Scripture from that standpoint, and understanding that the dragon refers to the people of Europe, I took it as an apt and fit interpretation of the conditions there. I did not know it had reference to the United States and don't know that now. 3068

The Court: It is not limited there?

The Witness: It was written prior—

The Court: There is nothing in there that would lead people to think it only meant European countries.

The Witness: I think so.

The Court: What are the words?

The Witness: "Narrow-minded hatred."

The Court: What are the words that are only to be applied to European countries? 3069

The Witness: The words are here: "Narrow-minded hatred of other people."

The Court: Just the words there that were to be applied to European countries?

The Witness: A narrow-minded hatred of other people, a hatred that would not be applied to patriotism.

Q. "Everywhere and always, murder in its every form is forbidden, and yet under the guise of patriotism, the civil governments of earth demand of

3070

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peace-loving men, the sacrifice of themselves and their loved ones." A. Certainly they have done that in Europe.

Q. We are a civil government of the earth? A. We are, but not of the kingdoms.

Q. Where do you find any word kingdom there? A. It is not in this particular phrase.

Q. You just read that in your own mind? A. Put it that way.

Q. Do you find the word "kingdom" there? A. It is not in this.

3071 Q. How did you find any illustrated explanation that the civil governments of the earth should exclude the United States? A. The United States has always been a government of peace.

The Court: The construction of that language is a question of law for the Court.

Mr. Oeland: Yea.

The Court: So the witness or the defendant cannot read in there anything that is not there. That must be taken in its plain, ordinary sense.

The Witness: I would like to say similar language appears in other—

3072 The Court: That is immaterial. If somebody else has committed a crime, that is immaterial. We are devoting ourselves to the guilt or innocence of the defendants on trial here, without regard to what anyone else has done. The construction of the language, I think, is well settled.

The Witness: I think we all used language prior to the war we would not use since. President Wilson was elected on the slogan: "He kept us out of war," in his own book. This was written before the war, before we got into the war, at a time when a great majority of this country were talking peace.

Mr. Sparks: Do you withdraw the unanswered question?

Mr. Oeland: I don't remember there was one. Yes, I will withdraw it.

Q. Did you read this letter I hand you, Exhibit 10 for identification, February 21, 1918? A. Yes, I dictated this letter.

Q. Then you knew prior to February 21st, there was something objectionable in your book? A. I knew in Canada there was some question raised about it, but I did not know what it was.

Q. You did not take the trouble to look and see if there was anything objectionable then? A. I did not have time to read the whole book then. The first time I specifically learned the objection was when I learned in March from Mr. Fisher.

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Q. Didn't you, as early as February 21st, 1918, know there was something objectionable to the military authorities? A. Not to the military authorities; no, sir; in the United States; no, sir.

Q. You did not take the trouble to look, then? A. I had no occasion to look then.

Mr. Oeland: We offer this letter in evidence.

The Witness: That letter applies to Canada, not the United States. They have an entirely different rule there from what we have here.

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Q. Didn't you think to look and see; you did not go ahead and defy the laws of Canada, without looking to see whether there was some violation? A. There was no specific violation called to my attention, and the order in Canada was a blanket censor without reference to any part of it, and the law in Canada, the Order in Council, I have since found out—

The Court: That is immaterial.

Q. Did you advise your followers to defy the laws

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of Canada without looking to see what it was? A. I advised him to get good lawyers to advise them.

Mr. Sparks: I object, it is immaterial; it deals with a foreign power.

The Court: What is the tendency?

Mr. Oeland: He refers to the objections of the book in Canada and other matters, the letter tends, I think, on matters showing intent, and it is admissible.

The Court: I think that is clearly on the question of intention.

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Mr. Fuller: Furthermore it was taken from the possession of Mr. Woodworth in violation of his rights under Sections 4 and 5 of the Constitution.

The Court: Is that included in your petition?

Mr. Fuller: Yes.

Mr. Oeland: Your Honor must bear in mind that Mr. Woodworth himself, not from me, testified he received that letter in due course of the mails. I did not ask the question. He identified it on direct-examination.

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The Court: I shall take it. Wasn't it offered in evidence?

Mr. Oeland: I did not offer it.

The Court: No one offered it?

Mr. Oeland: It was marked for identification. Mr. Woodworth said: "I received this letter through the mail."

The Court: I think that makes it admissible, but you still have all your rights preserved.

Mr. Fuller: I will take an exception.

The Court: Exception.

The letter was received in evidence and marked Exhibit 10 and read to the jury.

Mr. Fuller: When Mr. Hudgings was on the stand he was taken off before we examined him. He had some testimony we wanted. May we have the marshal bring him up this afternoon?

The Court: He is in contempt. Is it the practice to allow a witness, while he remains in contempt, to continue his testimony, or to be recalled as a witness?

Mr. Oeland: I am sure I do not know what the practice is.

The Court: I will consider this. You don't 3080
care to use him until the afternoon session; I will consider this and let you know in time to bring him down.

Q. Did you wire to several points asking the brethren to give the matter as wide publicity as possible?

A. Yes.

Q. Were those points in the United States? A. They were not, because it had no reference to the United States.

Q. Didn't you then determine you had better look at the book and see if there was anything objectionable? A. No, sir; because there was nothing specific pointed out and I had reason to believe some other 3081
motive was back of the whole matter.

Q. Did you want to advise your followers to defy the law without looking in to see what the matter was? A. Not defy the law, but I knew the ministers of Canada were working up sentiment against us everywhere they could.

Q. "But the little members of Gideon's band are standing firmly in line and boldly telling the ecclesiastical and civil powers that they will seal their testimony with their blood before they will be driven to silence concerning the message of the kingdom. Several of them are under arrest and I have wired them

to employ the best lawyers and fight to a finish, and we will stay with them." Didn't you intend that to convey the idea you were going to defy the civil authorities? A. Not defy. The civil authorities—they had a right to make a defense, did make a defense, and a number of them were discharged.

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Q. Didn't you think it was necessary to look at your book then? A. Nothing was said about the book then. They said the book as a whole, the book exposed the ecclesiastical systems, not civil powers, and because of that they were seeking, as the Scriptures said they would, to get the civil powers behind them to impress others to get in line.

Q. When you wrote your letter of March 16, 1918, you say that was sent out with your knowledge and consent? A. Yes.

Q. Did you examine it then? A. Examine the book? I examined it prior to that time.

Q. You had examined it prior to that time? A. Yes.

Q. How much of it did you examine prior to that time? A. I examined pages 247 to 253, and they had been removed.

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Q. "We are fully convinced that it does not contain anything that is in anywise injurious to the Government or a detriment to the prosecution of the war." A. I do not think it was injurious to the Government. I knew of no person the seventh volume had influenced one way or the other.

Q. Were you of the opinion that there was nothing in it you objected to? A. I would say with those pages removed.

Q. Wait a moment. All this is previous to removing the pages? A. No, they were removed.

Q. "Information has just reached us that the Department of Justice at Washington holds that 'The Finished Mystery,' Volume 7 of 'Studies in the Scrip-

tures,' contains certain matter that is in violation of the Espionage Act recently passed by Congress. We are fully convinced that it does not contain anything that is in anywise injurious to the Government or a detriment to the prosecution of the war. We are having the book thoroughly examined in the light of this new law and hope to be able to advise you within a short time." You have not said a word about having it removed. A. Read on the rest.

Q. I am talking about then. A. Up to that point in the letter, no.

Q. "In the meantime do not offer any copies of the seventh volume for sale or give any away. This will not interfere, however, with the friends meeting at regular class studies and using this as a text book, but even for this, we advise that pages 247 to 253 be removed." You did not intend to say the prior part of that, after it was removed, you saw nothing objectionable? A. I meant what I said. I do not think there is anything in there that would interfere with the Government in the prosecution of the war. I went to the Attorney-General—

The Court: Never mind that.

Q. "We are convinced that it does not contain anything that is in anywise injurious to the Government or a detriment to the prosecution of the war." Did you mean what you said there? A. I did.

Q. At that time you read the objectionable article by Holmes? A. I did at that time.

Q. You say then there was nothing objectionable in it? A. I said there was nothing to interfere with the Government; I know of no one who read the seventh volume who in anywise changed their conclusion with reference to war. I do not know it yet. My point was this: If it was the desire of the Government it should not be circulated, it would not be.

There has been no disposition to go in opposition to the Government's desires. That is the reason for trying to obtain from the Attorney-General's office the objections to it.

Q. Did you hear this letter read here, Exhibit 33a in evidence? You say nobody had been affected by the seventh volume. Did you know of this letter? A. I never knew of it until read the other day.

Q. I understood you to say you did not know of anybody, before or since that was written? A. I don't think this says it changed his views.

3089 Q. It says it helped him along, strengthened him? A. That is a different thing. He had already taken his position as to war prior to that time.

Q. He said he was an unconsecrated member? A. I never saw the letter or heard of it until the other day.

Q. You said you never heard of anybody before or since, affected by the seventh volume? A. I did not. I say that now, and I think if he was affected by the seventh volume, he should be here and testify. If I had known it before, we would have had him.

3090 Q. You would not want him to contradict what he wrote? A. No.

Q. Don't you think this was written at a time when there would be no motive for him to say anything untruthful? A. I don't know what the motive was.

Q. Did you question this letter? He says he has been the support of his mother, that his petition was overruled, that he has always been a faithful reader of Pastor Russell, and for the last two years opposed to war, but since receiving the seventh volume, "I feel more convinced than ever that militarism is wrong and it would be a sin to fight for these kingdoms knowing they must fall." A. I know it was his expression; I don't know if it is an honest expres-

sion. I don't know the man, never saw him; that is not the best way to prove that effect.

Q. Have you any reason to criticise that letter now at this time? A. I don't know the sincerity of the party who wrote it. If it was insincerely written, of course, it would be a question.

Q. And if he says the seventh volume, as stated in the letter, did strengthen him in his belief, you would not believe him? A. If he came on the witness stand and said it, I would.

Q. Did you think it would not strengthen a man who might be wavering? A. I do not think it would have anything to do with it. It appears it bears on a different subject.

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Q. You don't think telling a soldier this war was a crime, its prosecution was crime, and not a principle involved worth the life of one man, you don't think that would affect him? A. I wouldn't tell him that myself; that was Jefferson's work.

The Court: You ordered it printed?

The Witness: I did not order it printed.

The Court: Yes; you had it printed and distributed and knew what was in it.

The Witness: I did not know this was in it; I did not read it.

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Q. You said you did not know of anybody it affected. I am asking your opinion, do you think that would tend to strengthen a man in his views in going into the Selective Draft, encourage him? A. I don't think it would tend to strengthen a Christian.

Q. Well, a non-Christian? A. I don't know; it might and might not.

The Court: What do you most think about it?

Q. You think that might encourage a man a little doubtful for an excuse to get out of the war, you

think that would encourage him to enlist, that war was a crime, its prosecution was a crime, and that there was not a principle involved worth the life of one man? You think that? A. I don't know what would be the operation of his mind. It would not encourage me or any Christian. It might encourage somebody else.

Q. You mean that it might encourage somebody to enlist? A. No, not to enlist; I understand that the other way. It might encourage him not to enlist, it might have that affect; I don't know that it would.

Q. On the 17th of July you had quite a celebration there or as one of the witnesses put it, a gala event? A. I would not say it that way.

Q. Were Mr. Woodworth and Mr. Fisher invited to be present? A. Mr. Fisher was appointed a member of the Board of Directors. Mr. Woodworth accompanied him to Brooklyn.

Q. Were they invited to be present? A. Mr. Fisher was; I don't know about Mr. Woodworth.

Q. Who else was invited? A. Dr. Spill, Mr. Bohnet.

Q. Was that the day set for the celebration of the beginning of the distribution of the seventh mystery?

3096 A. No, sir. Before they had gone out, before that, several days.

Q. From where? A. From Hammond.

Q. None from Brooklyn? A. No; they hadn't reached Brooklyn.

Q. Wasn't that the day set, you had a lot on hand? A. They got there the night before.

Q. You knew they were shipped before? A. Yes.

Q. You had them there? A. Yes.

Q. On that day you removed four directors? A. I never removed them, because they were not legally there.

The Court: They were physically there?

The Witness: They were not physically at that meeting, because they refused to attend.

Q. Didn't you issue an order they were removed and other people appointed in their places? A. I filed a written opinion.

Q. Four other men had been acting as directors up to the time you appointed these other four men? A. Yes.

Q. You announced that they were removed and others had been appointed in their places? A. I announced the office was vacant and others appointed to fill the vacancy.

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Q. They had been acting up to that time, these four directors? A. They had been acting.

Q. When were you elected a director? A. January, 1917.

Q. When were you elected before that time? A. I had been elected by the members of the board, but not legally elected.

Q. I am not asking legally or illegally. A. I have been on the board since 1910 or 1911.

Q. One or two of these men had been on the board prior to your time? A. I think so.

Q. One of these men, Mr. Hirsh, had been elected by the board at which you presided? A. That is true.

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Q. After you elected him, January, 1917? A. Somewhere along there.

Q. He kept acting? A. He acted in that capacity until he tried to upset the society.

Q. I did not ask you about upsetting the society. A. I am going to assign a reason.

Q. We will get a little straighter later on. You were acting as a director? A. Yes, sir.

Q. Mr. Hirsh was elected a director by the board in which you presided in January, 1917? A. Yes.

Q. He acted up until July 17th, 1917? A. Yes.

Q. Mr. Ritchie, was he a director, too? A. Acting as such.

Q. How long had he been acting as such? A. Three or four years or more.

Q. More than that, didn't he? A. I don't remember; several years.

Q. There was Hirsh elected by the board in January, at which you presided? A. Yes.

Q. Mr. Ritchie had been a member, acting as a member of the Board of Directors, how long? A. Three or four years.

3101 Q. Who else? A. Mr. Wright and Mr. Hoskins.

Q. How long was Mr. Wright acting? A. Before I did.

Q. How long before? A. I don't know.

Q. You sat with him in board meetings after you became the presiding officer of the board? A. Yes.

Q. Who else? A. Mr. Hudgings.

Q. How long had he been holding office? A. I don't know; the record will show; several years.

Q. Acting as such? A. Yes.

Q. And your charter provided directors should hold the position for life? A. That is in the charter in derogation of the statute.

3102 Q. Didn't your charter provide your directors should hold office during life unless removed by a two-third vote? A. That is part of the charter; it is understood it was all to be read together.

Q. Is that a part of it? A. Yes.

Q. You had been holding as a director under that charter? A. Yes.

Q. Since 1911? A. Somewhere along there.

Q. You came in after some of these men were put on the Board of Directors? A. That is true.

Q. And yet on July 17th, you removed these four and appointed another four? A. I did not remove them; I took legal advice and they were not there properly.

Q. They had been acting there? A. Yes.

Q. How long had Mr. Van Amburgh been acting in that capacity? A. Several years.

Q. In the same way? A. No; he was elected annually.

Q. As a director? A. As an officer which the charter provides, that makes him a director, because the shareholders elect the officers, not the directors.

Q. Who else, you? A. Yes.

Q. You were elected director, holding as officer? A. Yes, and Mr. Pierson.

Q. Was Mr. Pierson an officer? A. Yes; he was the vice president. 3104

Q. Wasn't Mr. Ritchie the vice president before that? A. Mr. Ritchie was vice president in 1916.

Q. You removed him and put in Pierson? A. No, sir; Mr. Pierson was elected in his place. Mr. Pierson was elected in January, the meeting of January, 1917.

Q. Doesn't your charter provide officers shall be elected by the shareholders? A. Yes, sir.

Q. Then you have these four men acting as directors, one of them elected by the board at which you presided, and you know the law to be that directors hold over until subsequent election in the event— A. If they are properly elected, yes; if not, no. 3105

Q. Where did you get your improper election from? A. I had no proper election until January, 1917, when I was elected at the annual meeting.

Q. Who else was elected? A. And Mr. Van Amburgh and Mr. Pierson.

Q. You were elected not a director, you were elected president? A. I was elected president.

Q. And Mr. Van Amburgh was elected secretary and treasurer? A. And under the Pennsylvania statutes that made me a director.

Q. And you removed four acting directors? A. I did not remove anyone.

Q. Did you say you are out and I am going to put four other men? A. The record shows what I did. I made the announcement, being vacant, I appointed four men to take the vacancies.

Q. Did you declare the office vacant on the 17th of July? A. No appointment was made prior, consequently—

Q. When did you make the vacancy, exact? A. The record is the best evidence; I think the 12th of July.

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Q. You made it the 12th. You declared these men were not there and there was a vacancy? A. Yes, but this has nothing to do with "The Finished Mystery," as you suggested the other day.

Q. You put in and had a meeting with your four new directors on the 17th? A. Yea.

Q. And from the 17th the money was paid out of The Watch Tower Bible & Tract Society for the publication of "The Finished Mystery"? A. I will answer that yes and ask to explain.

Q. You have answered yes. A. There was no connection with this, your Honor.

Q. Is it true the money was paid out of the Watch Tower? A. After that \$5,000 was exhausted.

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Q. It is true after the 17th the money was paid out of The Watch Tower Bible & Tract Society, after exhausting the \$5,000? A. After exhausting—yes.

Q. Is it true after July 17th—prior to July 17th not a dollar was paid out of the funds of The Watch Tower Bible & Tract Society? A. That is true, but it had no more relation to this than the sun does.

Mr. Sparks: I will ask you those questions.

The Court: You have this one answered. To put off the explanation, which is the practice in a good many courts, I have always thought it loses its effectiveness. I think we will take the course, as on other occasions

here, and if the witness desires to make an explanation he may do it, rather than to put it off until after; it would lose its effectiveness.

Q. Will you explain, Mr. Rutherford? A. The four men whose places were filled had entered into an agreement to tie up all the funds of the society. Shortly after Pastor Russell's death we sent a man as a representative of the society to England, and while there he took everything in his own hands, instituted a suit in the High Court of London, and tied—

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The Court: That wouldn't have anything to do here.

The Witness: Yes, he came here and started the same thing here with these men.

The Court: What he did in London was of no concern.

The Witness: It was our concern; we have a London office. He tied up all the funds in London. I cabled our solicitor there and had them, after a hearing released. He was recalled, came back to the United States, and the four mentioned here had been disgruntled about other matters, they had nothing with reference to the seventh volume. The matter was never intimated. These four, together with the one who went to London, Mr. Johnson, were consorting together, and in a meeting in general, one stated he would see that they ran the matter to suit themselves. They had prepared a set of resolutions taking away from the president the management of the society, were to put one of their number at the Tabernacle to run it there, and another at the Bethel Home, and make the president sit down, notwithstanding the members had made him the general manager, and threatened to tie up all the funds so the presi-

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dent could not do anything, could not expend \$100 unless they said so. I knew that was contrary to the wishes of our people all over the country—

The Court: That would not be material, the wishes of the people. That was the part about the money.

The Witness: They had threatened to tie it up. At this time, while the matter was being discussed, I received from Mr. Butterfield this check. Instead of putting it in the general fund, knowing he wanted it used for this purpose, I put it in my credit, instructing them we would use that first, so if they started legal proceedings to tie up the funds, we would have this money; to publish the seventh mystery, the publication was not concerned, they had no reference to it. As soon as this \$5,000 was exhausted we drew on the treasury. They had not instituted suit, I did not know what they were going to do, and after the 17th of July they could not do anything. I took legal advice and had a legal opinion.

The Court: We are concerned today with the management.

The Witness: It had wholly to do with the management, and not the book.

Mr. Oeland: Mr. Van Amburgh gave a different version.

Mr. Sparks: Then I think we should have the whole story.

The Court: Haven't you got it?

Mr. Sparks: No; he says he submitted the matter to counsel.

The Court: We can't go into the question of the advice he got. The only thing material is, another defendant having given a different version, it is the real purpose we want.

Mr. Fuller: Another defendant did not give any different story.

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Mr. Sparks: Mr. Oeland, in his question, intimates that Mr. Rutherford, without any authority, and solely from his own standpoint, was dissatisfied with these men and threw them out.

Mr. Oeland: He said so.

Mr. Sparks: No, he did not say anything of the kind.

The Court: I think he said they were consorting together to make trouble, to tie up the funds and shear him of his official right, and he put them out.

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Mr. Sparks: He took advice.

Mr. Fuller: He didn't put them out; he found that they did not have the power to do it.

The Court: That is grinding pretty fine. They were there as *defacto* officers. I think it was well enough to refer to putting them out.

RE-DIRECT EXAMINATION by Mr. Fuller:

Q. Was the annual meeting of the shareholders held subsequent to this incident? A. Yes; January 6, 1918.

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Q. Did they elect the Board of Directors? A. They elected an entire Board of Directors, seven members.

Q. Were any of the persons to whom you referred as not being properly members of the board, whose positions were declared vacant, were any elected? A. No, they all stood for election, but were not elected.

Q. All defeated? A. By an overwhelming majority.

Q. Your action was sustained? A. My action was wholly sustained in the organization throughout the country.

Q. Exhibit 10 in evidence, a letter from yourself to Mr. Woodworth, in which you discussed the Canadian matter. At that time had your attention been called from any source or by any authority, to any matter in the book, any of the matter in the book which is now claimed by the prosecution here to render the book an objectionable publication? A. It had not.

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Q. At that time had you any knowledge whatever that the Canadian Government knew of anything in this book which permitted them to think it was being circulated for the purpose of impeding any of their warlike activities? A. I don't know. I understood the motive was from another way, another source.

Q. There are matters in this book explaining prophecies in Ezekiel or Revelations, in a manner unflattering to some of the other creeds and other churches; is that true? A. Yes.

Q. Was it your belief at the time you read this letter, that clergymen resenting such comments in the book as that were endeavoring to instigate the civil authorities in Canada to prevent the circulation of the book? A. Yes.

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Q. It was your idea that was the sole purpose of meaning of the activity of the Canadian authorities? A. Yes, a press issue announcement saying the clergymen—

Q. Were there pulpit talks on the book? A. Yes.

Q. Whole acts of theological reference? A. Yes.

Q. No act or reference was called to your attention in the book as to anything which had to do with the war? A. Nothing at all.

Q. That was February 21, 1918? A. That is the date this letter was written.

Q. That is six days before the search warrant upon the Bethel Home? A. Yes.

Q. Can you recall any of the pulpit references

that prompted this belief at the time you read Exhibit 10? A. I have some more memoranda at my office, but I recall one by Dr. Patterson, appearing in the "Winnipeg Tribune."

Q. What did Dr. Patterson say? A. Shall I read this?

The Court: What is this?

Mr. Fuller: I am examining the witness on re-direct with respect to the purport of Exhibit 10 put in evidence by the People. The witness has stated that at the time he read this letter he entertained a belief the sole purpose of the opposition manifested by the civil authorities in Canada was to prevent the circulation of the book for theological reasons. I asked him if statements were made by Canadian clergymen, asking if he recalls Canadian clergymen, and I asked him the name of some clergyman.

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The Court: How are we concerned with what the clergymen thought of the book?

Mr. Fuller: I don't think we are concerned with what the clergymen thought of the book, but I think we are with his idea in writing.

The Court: Didn't he say civil government?

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Mr. Fuller: Yea.

The Court: How are we concerned with ecclesiastical reasons?

Mr. Fuller: We are concerned at the time he wrote this: "The little members of Gideon's band are standing firmly in line and boldly telling the ecclesiastical and civil powers that they will seal their testimony with their blood before they will be driven to silence concerning the message of the kingdom." Before they will cease preaching, because, or as they say, the implication of the prosecution, and the rea-

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son for introducing this letter, is it discloses on the 21st of February an entirely different motive and purpose than what it was introduced for.

The Court: What difference does it make what some minister said?

Mr. Fuller: About the belief in his mind at the time he read it.

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The Court: We are concerned with the intent to commit a violation of the law in this land. Don't he say something about the civil authorities? Isn't that the only thing important?

Mr. Fuller: If that is the only thing important in Canada, I don't see how this is relevant. This is a point raised in Canada.

The Court: I hardly think it proper for him to read what some minister said.

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Mr. Fuller: This letter is read for the purpose of supporting the inference as true that on February 21st the witness had reason to believe objectionable matter was in the book. The witness said there was nothing in this letter, no purport in this letter, and testified what facts were in his mind and the sources of his belief. The activities in Canada to which this letter has reference.

The Court: To substantiate him in that, you want him to read from a newspaper which gives an account of what some minister in Canada is alleged to have said; that is the situation.

Mr. Fuller: Not quite.

The Court: I will exclude the newspaper.

Mr. Fuller: Exception.

Q. Can you recall, without consulting any memorandum to refresh your recollection—

The Court: He may refresh his recollection by looking at anything, but not read from a newspaper. That is more than refreshing his recollection. Is that your purpose?

Mr. Fuller: Yes.

The Court: I didn't hear about refreshing his recollection. He may read it, then. That applies to the last question. The witness said: "May I read from it." He may refresh his recollection from anything.

Q. Can you recall any statement made by any Canadian clergyman prior to the writing of this letter which was the basis of that belief?

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The Court: Any statement you know of your own knowledge.

The Witness: I did not hear him make it; I got it through reports sent me by the public press, and private letters.

Q. Can you recall any statement recorded in the public press made by clergymen to confirm the basis for this belief? A. Yes.

Q. What was that statement? A. The statement in substance was that the International Bible Students' Association was circulating in Canada the "Bible Students' Monthly," which quoted from the book "The Finished Mystery," which attacked the ministry. They didn't say anything about attacking the civil authorities, attacking the ministers, and Dr. Patterson stated from his pulpit, and others, the same thing. I am informed, that the civil authorities should take it up, and upon that information the Attorney-General had sent for the papers, and about the same time I received a telegram that several of our brethren were arrested in Canada for having "The Finished Mystery" in their possession, without stating what part or any part

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was objectionable, but because they had it in their possession they were put under arrest.

Q. At that time no suggestion had come from any source that anything in the book bore with impropriety upon any of the war questions? A. Nothing at all. I had known the attitude of ministers toward me for some time, and our people.

Q. The only thing you were charged with was religious or theological objections by the clergymen?

A. Yes, I held, and hold now, the civil authorities could not get behind a church fight; that was not contemplated by the law.

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Q. In the letter to the colporteur, Exhibit I in evidence— A. Mr. Fuller, before you get away from the Woodworth letter, the last paragraph would—it might be ambiguous, if you would like some explanation on that.

Q. You refer: "I know you are happy as you see your finish and that near"? A. Yes.

Q. "Cheer up, old boy, you will soon get what is coming to you. That will be a glorious day. The Lord bless you richly and keep you."

The Court: That means what, you say?

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The Witness: It might be subject to two constructions. Somebody might think it means what is coming to him here. I meant what is coming to him hereafter, after this life.

Q. You were referring to your belief of the approaching Kingdom of God? A. We were expecting for twenty-five years—

The Court: You meant what that says?

The Witness: I meant what that thing means to a Christian, not what it means to somebody else. We had been expecting for twenty years the situation we see prevailing. We expected that to come prior to

the cause of the Christians, fighting the good fight of faith, that they would go through special trials and tribulations before that, and would get what is coming to them, namely, what is said in Second Peter I, Verses 4-12, the conclusion of which is—I would be glad to have you read it, if you will.

The Court: We will not pause there. We will take judicial notice of the passage.

Q. State the contents of it. A. "They shall be given an abundant entrance into the everlasting Kingdom of our Lord and Savior, Jesus Christ," which, of course, as that letter says, would be a glorious day for him.

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Q. It is a reference to the relation of that prophecy you were relating in that concluding paragraph? A. Yes, sir.

Q. No reference whatever to anything connected with the war? A. Absolutely nothing.

Q. Or connected with this immediate situation? A. That is the great hope I have had for him and myself ever since I have known Mr. Woodworth.

Q. In this letter to which I referred, in a question before, Exhibit I, to the colporteur, a paragraph is used, signed by The Watch Tower Bible & Tract Society: "Dear Brethren: Information has reached us that the Department of Justice at Washington holds that 'The Finished Mystery,' Volume 7 of 'Studies in the Scriptures,' contains certain matter that is in violation of the Espionage Act recently passed by Congress. We are fully convinced that it does not contain anything that is in anywise injurious to the Government or a detriment to the prosecution of the war. We are having the book thoroughly examined in the light of this new law, and hope to be able to advise you within a short time." Did I understand "we are fully convinced it does not contain anything in anywise injurious to the Government or a detri-

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ment to the prosecution of the war," was an opinion that the two excerpts of Dr. Jefferson and Dr. Holmes' paragraph of patriotism was wholly unobjectionable, or simply as to the validity of any contention as to real harm? A. The letter, of course, the validity of its contention; nothing the Government said—

The Court: That is not what he would do, what conclusion did he come to?

The Witness: That was the conclusion I came to, the validity of the contention.

3137 Q. You say: "We are convinced that that does not contain anything in anywise injurious to the Government." Is it your personal belief these two paragraphs referred to on that paragraph on patriotism was not injurious to the Government? A. That is true. If I wanted to have injured the Government, I would have taken a different course.

Q. You did not say you approved the comment of Dr. Jefferson? A. No, not at all. The Jefferson article is being circulated freely around the country—

Mr. Oeland: I object and ask that that be stricken out.

3138 The Court: Yes; not material. It is unnecessary for the defendants to impress upon the jury and the Court that others may be or are violating the law as passed by Congress. It is rather unusual. It is more than that; it is extraordinary to do such a thing in court.

The Witness: May I explain? That is not the purpose of my making that statement.

Mr. Fuller: Now, if the Court please, the question in this case is the question of intent, and it seems to me upon the point of intent, there is a great distinction bearing upon the question of intent, the existence of intent.

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The Court: I did not know counsel for the defense are going to take the same views as to the law regarding criminal intention, views so much opposed to one another, I think we can hardly reconcile them. The Court prefers to follow the opinion of the Supreme Court of the land. I think it is the duty of the Court to follow what the Supreme Court of the land said upon the subject.

Mr. Fuller: We do not differ with your Honor as to your duty in that regard, only what the Supreme Court said.

The Court: They did not use words that are not in every-day use. I hardly think any of us need a dictionary to help us understand what the Supreme Court said. 3140

Mr. Fuller: It is more a question of its application to the facts in this case we have in mind.

The Court: I hardly think that we should disagree as to that. I will hear anything you have to say on the law. I may ask you if you have any precedent that modifies in the least what the Supreme Court said; I believe there are none. The Reynolds case is the last case on that.

Mr. Fuller: I have no precedent. I believe it is a sound opinion of the law, applicable to the state of facts. 3141

The Court: The plain statement there is a religious belief is no defense to the act knowingly done, and that ignorance of the law is no excuse whatever.

Mr. Fuller: On the facts in that case.

The Court: The same rule would apply where a man was to do the act of getting married or publishing books. It was an act. A

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man getting married was acting in accordance with his doing right. Writing and printing and publishing of this book, the defense say they thought it was right because of their religious belief. There is no difference. The publication of this book and getting married are acts.

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Mr. Fuller: If the law was to the effect the publishing in any book of anything not tending to declare war as war, or tended to attempt in the participation of this particular war of the United States was a crime, the intent with which this language was published would be no defense even if this language were their language. The fact that this language was prohibited by statute would take the intent out of the case. The only question is whether they intended; the other question is whether he intended to marry that woman. Nobody shall be permitted to interfere or obstruct the draft. It is not the law nobody shall set forth the matter on page 247 and 253. The question is whether they shall obstruct the draft. The question is whether this does, will or did obstruct the draft. The question is whether it was published or circulated with intent to obstruct the draft. The language the statute prohibits in this case is not the publication of this language, but doing the thing the prosecution claims was intended to be done, sought to be done. It is our contention that takes it out of the state of affairs considered by the Supreme Court in the Reynolds case.

3144

The Court: They say they wrote what they intended to, had printed what they intended to, published what they intended to, there was no inadvertence, no mistake, they wanted every-

body to believe it and the more people did the more gratifying it would be; they wanted everybody to act on it, adopt it, follow it; in other words, they wanted everybody to be converted, as far as possible. What other results they contemplated, that it was not to hinder the draft, to keep as many people out of the war as possible, to stop enlistment service, you would not expect the persons constituting the military force would do exactly opposite to what the purpose and intention of these defendants was to have them do. You do not intend that, of course. We will let you take an answer to this question.

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Mr. Fuller: That answer is not stricken out?

The Court: The fact it was being circulated would be immaterial. Strike that out. The fact others committed a crime, I won't permit it to that extent. I have opened it wide, we will decline to permit the question whether others were committing crime. We will confine our contention to this defendant.

Mr. Fuller: I urge it is material upon the question it bears to intent.

The Court: I will strike that out, with the desire and purpose I have to open this case wide open to these defendants, yet I cannot adopt the proposition that if one person is stealing horses, they have the right to show many others are stealing horses, leading him to believe he had a right to steal horses. I won't go into that.

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Mr. Fuller: Nor will we. Will your Honor allow me an exception on that, on the question of intent?

The Court: Yes, exception, of course.

3148

Joseph F. Rutherford

Q. So your position taken in this letter was, notwithstanding any disapproval of the wisdom or propriety of these excerpts you did not regard them as injurious to the Government? A. Yes.

Q. Or a detriment to the prosecution of the war?
A. That is the thought.

The Court: Did you finally decide to take out these objections?

The Witness: We ordered them taken out as quickly—

3149 The Court: You say in that letter you are having it investigated by someone; I take it some lawyer.

The Witness: Not the pages; the whole book.

Q. Who was the lawyer? A. I asked Mr. Fuller to read the book.

The Court: He advised you?

The Witness: These pages were taken out before he read it.

The Court: You had not taken them out because you thought them harmful, but to please the Government?

The Witness: That is exactly it. Because the Government—

3150 The Court: You still think they are all right. You took them out of the book to please the Government?

The Witness: I thought if the Government objects to that, that is the best reason they should come out, and if the Government objects to the whole book, we will do that as quickly as we know it.

The Court: Not because you think it is unlawful; you think the book is a good book, a lawful book?

The Witness: Yes.

The Court: And the more of us who read it, the better; and the more who believe it, the better?

The Witness: I don't think those removed pages would make any difference.

The Court: You still urge the book as originally printed is a good book?

The Witness: As a whole.

The Court: It is good, does not violate the law, and that the soldier boys and those of military age who read the book, and all the rest of us should read the book and adopt its teachings and follow it; that is your position?

The Witness: Practically so.

The Court: Don't say practically so; say that is so?

The Witness: I don't like your Honor to put the words in my mouth. 3152

The Court: Haven't I used words that describe your notions?

The Witness: Might I state them—

The Court: No, state them to me. You have opportunities here. You still think the book is a good book?

The Witness: Yes.

The Court: This makes men of God of the soldier boys, of other young men of draft age, as well as all other people who do read it and adopt its teachings, doesn't it?

The Witness: Aside from the John Hays Holmes article, I don't see anything in there that would affect the war. That is an ill-advised expression. 3153

The Court: You don't see anything in it to violate the law?

The Witness: There might be a technical violation on that particular clause, that particular language of Holmes.

The Court: He seems to adopt the book and stand on it.

The Witness: I would like to answer now. You said I might explain.

The Court: It is singular that every simple question should have an explanation.

Mr. Fuller: I don't think there is anything singular at all about—

The Court: Go on with this explanation.

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The Witness: The book as a whole is devoted exclusively to religious matters as a whole. It is good book, calculated to do much good; it contains information of that which all the people ought to know. The words of John Hays Holmes I do not think are very appropriate for the book, and had I had them in mind at that time, I would not have put them in.

Q. The same refers to the Jefferson article? A. The Jefferson, I think the same to be true. I did not read that because it was in the "Watch Tower" prior to the 15th.

Q. Did you say you adopt the book and believe in it? Did I understand you to say you believe it, wanted people to believe it, adopt the belief, live up to the belief that this war is wrong, its entrance is a crime and the principles do not justify the life of a khaki coat or a blue jacket? A. No.

3156

Q. Do you want people to believe that? A. No.

Q. Do you think any of the persons engaged in the publication of this book desire that? A. No, sir.

Q. When you say you believe it and want people to believe it, you refer to the theological prophecy? A. I refer to the explanation of the various scriptures, because it takes up a verse at a time, explains one sentence at a time, which I think is the best explanation that has been published.

Q. All the time this book was being published, circulated, distributed, did you have in mind in the performance of those acts or any acts by you upon it, did you have in mind there was anything in this book that might prompt any person because of what he

read in this book to oppose this particular war? A. No, sir.

The Court: He said he did not know what was in the book?

The Witness: No such thought was ever in my mind.

The Court: You claim the law says persons who write or engage those in writing or printing or selling a book can be heard to say they did not know what was in it?

Mr. Fuller: Yes. I don't think the head of Macmillan & Company can be prosecuted for a book, the contents of which were unknown to him. I think they can be heard to state. 3158

(The Court, at 1:00 P. M., took a recess until 2:15 P. M.)

June 18, 1918, 2:15 P. M.

The Court met pursuant to recess adjournment.
Trial resumed.

JOSEPH F. RUTHERFORD resumed the stand, and was further examined by Mr. Fuller: 3159

Mr. Fuller: Now, if the Court please, I desire to read to the jury from "The Finished Mystery," whatever the number of that may be, Exhibit B, one of the volumes—one of the volumes of the 75,000 issue.

The Court: There is some evidence that was admitted in the early part of the trial against certain defendants. Now, I do not recall the Government asking that be admitted against the other defendants. It should not be, of

3160

course, as the case stands now. There may be some portions of that by way of recital, the main narrative, that would not be evidence against all. I think the District Attorney should give his attention to that. I do not recall now that there was any of that that should be admitted against them all. Still there may be some.

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Mr. Oeland: I do not recall a single thing that is in the way of reciting after the conspiracy was closed. Once or twice I offered some matters like that and your Honor mentioned that the testimony of some of the defendants may be a recital afterwards and that was excluded.

The Court: I do recall now one piece of testimony that tended to show what one or more defendants said to the officer when making the search down there, and that would not be in pursuance of the conspiracy, and that would be admitted against the person making the declaration.

Mr. Oeland: I remember those things being excluded at the time, and I have not made any motions to renew that testimony, and I think the Court's ruling is entirely proper.

3162

The Court: Have you made a motion to admit the other?

Mr. Oeland: Yes, sir. I made that at the end of the Government's case, that all testimony like the letters written by Mr. Robison and Mr. Van Amburgh, and your Honor admitted those at the time against the defendants themselves. The Court: And the book?

Mr. Oeland: And the book.

The Court: I do not recall that. You may be right about that. The fact that I do not recall it is a sign that I did not do it.

Mr. Oeland: I will renew that motion when we finish the case. 3163

Mr. Fuller: I desire to read from Exhibit 3, a portion of the preface:

"In the light of Divine Prophecy, now being daily fulfilled and made clear to the Watchers, the following from the pen of Pastor Russell is further proof that he was sent of God to this generation. Long years before the beginning of the trouble now upon the nation he wrote: 'The four exhibitions of the Lord, given to Elijah represent, we believe, four manifestations in which the Lord is about to reveal himself to mankind, the first three of which will prepare men for the final one, in which will come the desired blessing to all the families of the earth. These are:

3164

"1. The mighty winds rending the very rocks. Blowing winds seem to be used in the Scriptures for wars. The wars, whose dark clouds who have threatened the civilized world so ominously for the past thirty years, have been miraculously hindered to give opportunity for sealing the Lord's consecrated people and their foreheads (intellectually) with the present Truth. We are, therefore, to expect that when these windows of war shall be let loose, it will mean a cataclysm of warfare which shall divide kingdoms (mountains)—prefigured by the mighty wind shown to Elijah (1 Kings 19:11), which rent the rocks. But God's Kingdom will now follow the epoch of war; the world will not thus be made ready for the Reign of Immanuel. No; a further lesson will be needed and will be given. It is represented in

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"(2) An earthquake. Throughout the

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Scripture an earthquake seems always to represent revolution; as it is not unreasonable to expect that an era of general warfare would so arouse the lower classes of Europe and so discontent with their lot (and especially with the conditions which would follow such a war) the revolution would be the next thing in order (Rev. 16:18). But, severe though those revolutionary experiences will be to the world, they are not sufficient to prepare men to hear the voice of God. It will require

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"(3) The fire from Heaven, an epoch of Divine judgments and chastisements upon a maddened but unconverted world, wild in anarchy, as other Scriptures show us. The results of their wars, revolution and anarchy and the failure of their schemes will have a humbling effect, and will prepare mankind for God's revelation of himself in

3168

"(4) The still small voice. Yes; He who spoke to the winds and the waves of the sea of Galilee will in due time speak peace to the people. He will speak with authority, commanding the observance of his long neglected law of love. And whosoever will not hear that Prophet shall be cut off from among His people (Acts 3:23)'—The 'Watch Tower,' July 1, 1898, p. 208."

The remainder is an excerpt from a subsequent "Watch Tower":

"Looking back to the prophetic testimony respecting the Times of the Gentiles, we perceive that our Lord's words, 'Jerusalem shall be trodden down of the Gentiles until the Times of the Gentiles be filled full,' give the intimation that the determined times, or years,

in which the empire of earth would be in the hands of Gentile governments, was a fixed one from the Divine standpoint. And, if, as we believe the Scriptures to teach, Gentile domination was provided for up to October, 1914, it would seem but a reasonable interpretation that Divine power would not be exercised to their dethronement until after the time allotted for their reign had ended—October, 1914.' The 'Watch Tower,' July 1, 1904, p. 198."

Q. The paragraph that I have just read is an excerpt from the "Watch Tower," July 1st, 1904, page 198. The first excerpt that I just read was written 20 years ago. The last paragraph I have just read was written 13 years ago. Now, Mr. Rutherford, both of those excerpts were written by Pastor Russell, is that so? A. Yes, sir.

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Q. And the doctrine as to the future for mankind interpreted by Pastor Russell as having been set forth in the Scriptures, which I have just read here, has been a doctrine that he had been preaching long prior to 1898, is that so? A. Yes, sir.

Q. And for how long has he been preaching, do you know, that the exercises of this Divine power would not happen until after the time allotted for the reign of Gentile domination, October, 1914, had expired? A. Well, he has been—he began his teachings about 1874 or 1875, but as to just what date he held those things I do not know, except that I know that it was more than 13 years ago that he wrote that last excerpt.

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Q. You know it was prior to October, 1904? A. Yes, sir.

Q. Now, this war advent, 1914, was construed by Pastor Russell as being a complete vindication of this prophecy?

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Mr. Oeland: That I object to. What effect would that have on the situation? I cannot see it. It is too remote. I cannot see how a prophecy could have any effect about the laws of Congress?

Mr. Fuller: None whatever on the laws of Congress. The distinction of prophecy can have a very great effect upon that which is in the minds discussing that deduction in the light of that prophecy.

3173

The Court: You have given before the jury pretty fully your religious beliefs for all these defendants. Now, will the Government offer any evidence to contradict their religious belief?

Mr. Oeland: No, sir. I tried to make it plain in the very opening of the case to the jury. I have been trying to adhere to that all the way through the trial.

The Court: Well, in view of that position, of what importance is it?

Mr. Fuller: Why, bearing upon the fact that this book, as motives, counted the presentation in the book of this character. For example, as to those excerpts by Pastor Holmes, and those excerpts by Mr. Jefferson.

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The Court: What difference does it make whose thoughts they were, if they were published as a doctrine?

Mr. Fuller: I do not know that it makes very much difference to me whether the defendants did or did not. My conception of the case is whether the defendants did or did not adopt the views *in toto*. I think in that regard, the function that the part of the war was playing in the advents of these things might have some bearing on the question as to

whether the defendants were publishing these articles. That Mr. Jefferson and Mr. Holmes had in mind—the authors of these views—as an indication that the prophecy was being fulfilled, and the cause of it is explained to all has a bearing on that question of intent. What the meaning of it was, this book means more to a person who knows that these people expected this war than it does to a person that does not know that they expected this war.

The Court: You may ask him.

(The stenographer repeated the last question.) 3176.

The Witness: Yes, sir, by Pastor Russell and many others.

Q. All the followers of Pastor Russell? A. Well, yes, sir.

Q. Including yourself? A. Yes, sir.

Q. When you stated here in this book, in this introduction to that excerpt, is it your language? A. Yes, sir.

Q. In the light of Divine prophecy now being daily fulfilled he made clear to the Watchers the fact that the war was the vindication or an answer, or a response to this prophecy? A. Yes, sir; based on that and on the words of Jesus himself. 3177

Q. And these other references in this excerpt I have read, first to the mighty winds that meant to an earthquake, that is what that meant, and then fire from Heaven, and the small voices, were all references to those corresponding verses or words in the Bible and comments as to what they are to be considered as meaning in the times of the present day events or events that are still in store for the future? A. That is correct.

Q. Now, yesterday the question came up as to the distinction between a new creature and an ordinary

Christian, perhaps as construed in your view of God's scheme of things, will you state what that distinction is; what terms you use in the first place, the new creature I think was one term? A. Yes. I asked permission yesterday to explain that and it was suggested it would be granted. The new creature has reference to the new creation of Jehovah, which began at the time of the baptism of Jesus in the Jordan, and refers to all who are ultimately of his body. Briefly outlined it is this: We had for man created on this earth by Jehovah the only one directly created at the time, he was a perfect man, and all of us are descendants from that man. He violated God's law and brought condemnation upon every one of us. We are all born sinners. God promised redemption to the human race, and he sent his only begotten son, Jesus, who became a man for the very purpose of redeeming mankind from death. He offered himself as a sacrifice at the Jordan, accepted by the Father, begotten there to the Divine nature. Three and one-half years thereafter he finished his sacrifice from mankind of his creation. He was a new creature of the Divine nature thus begotten. At the time of his death upon the cross his humanity ended. When he arose from the dead he arose a Divine being and ascended into Heaven. At Pentecost, or fifty days thereafter, which means Pentecost, God began the development of the members in the new creation. Those who have been followers of Jesus, fully consecrated, are begotten to the Divine nature and law. From then until now those who have been faithful followers unto death are begotten to the Divine nature, and the promise is the first of chief resurrection. The distinction of the natural man and new creature is this. All of us are born natural men. When one makes consecration to the Lord and has accepted of the merits of Christ Jesus, he is begotten to the Divine nature, and to use

the language of St. Paul "If any man be in Christ he is a new creature. Old things have passed away, all things become new." Henceforth his hope, aims and prospects are Heavenly, and not earthly. He still has his natural inclination, and the distinction is made in the 7th chapter of Romans of the warfare between the old man and the new creature, one warring against the other. From his natural inclinations, it is just the same as it ever was. The natural tendency was to give to the believer of this life to engage in such. If addicted to the drinking of liquor before he would still have that addiction. Doubtless, if addicted to fighting, he would still have that habit, but as a new creature in Christ Jesus he must war against that constantly until death, and that is a constant warfare, and if he willingly deviates from that course, (he may be unlawfully deviated from that course) but if he willingly deviates from it he forfeits his eternal existence, because now being begotten to the Divine nature he has a chance to live on the spirit plane and that alone. The Scriptures point out that the gospel age or the age of sacrifice ends at a definite time. We believe it has ended now, and ended a short time ago. That, after that there is no more opportunity for anyone to ever enter this Heavenly Kingdom class. It does not mean the International Bible Students are the only ones, or by any means all of them, or any particular number of them will be of that class, but it does mean that the new creation as a class that God has been selecting and developing over a period of 1800 years, and that these, and these alone, a very small number, will be the only ones that will be in the Kingdom class. That others, vast numbers of others, who have been begotten to the Spirit, who have been loyal, who have been in a measure unfaithful, who have compromised with the world, and who have tried to favor both the world and the

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Lord at the same time, are not granted the position in the body of Christ, but will be born in the spirit plane. And so, does not compare with the entire number of the human race. It has been generally understood by the vast number of church people that everybody that is to be saved at all must be saved in Heaven, but the Bible clearly shows that the very purpose of the new creation is to be associated with Christ Jesus to extend the everlasting restitution to all the human family, and when his reign begins in its fullness that all the dead will come forth from their graves, all the living on earth will have a fair and impartial trial and every man, woman, child, every creature born on this earth will have one fair and impartial trial for life. Everyone that prays that law under Christ will be restored to the perfection lost in the Garden of Eden. Now, the purpose of the consecrated Christian is to train himself for the position, no matter what his inclination would be to go to war—

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The Court: Now, we have gone into the doctrines he believes in and his association. Is that sufficient?

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The Witness: If your Honor please, I want to state now why one is a conscientious objector. He could not be otherwise honestly a conscientious objector.

The Court: What difference does it make here? You have no right to define what a conscientious objector is to disobey the military authorities. It does not make any difference why he is a conscientious objector. The army should be let alone as far as civilians are concerned.

The Witness: May I say to your Honor that it is impossible for anyone to understand our position, unless he understands the distinction between the new creature and the natural man.

The Court: Well, the purpose of this trial is not to convert others to your belief.

The Witness: We have not tried to convert anyone.

Q. Now, I show you a book entitled "Watch Tower Bible & Tract Society and People's Pulpit Association, Home and Office Rules," and ask you if beginning on the fourth leaf, not counting the cover as a leaf, you find any rules which regulate the work at the office of the association? A. Yes, sir.

Mr. Fuller: I offer that in evidence.

The Court: What is the purpose of that?

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Mr. Fuller: To prove the rule that is underlined.

The Court: What is the materiality of the rules? You have shown how the business was done there. Do you expect to contradict it or show it to be any different?

Mr. Fuller: No; just to prove the existence of the rule regulating the supervision of mail coming in and going out.

The Court: Well, do you expect that rule to be any different than the evidence you have introduced tending to show the practice at the time?

3189

Mr. Fuller: No. I want to prove that there was such a rule. The rule; may I read the rule to your Honor? The rule is incoming and outgoing mail shall be under the supervision of a Tabernacle manager, and all outgoing letters must be passed over and signed at his desk.

The Court: That is what your testimony tends to show. You may have it admitted. Mark the rule in evidence.

The rule was received and marked Exhibit N in evidence.

3190

Joseph P. Rutherford

Q. As far as you know there was no waiver in the application of this rule that all persons were under instructions to conform with the rule "incoming and outgoing mail shall be under the supervision of the Tabernacle manager, and all outgoing letters must be passed over and signed at his desk"? A. Yes, sir.

Q. When you were in town, the Bethel Home, was it your practice to preside over the meals there? A. Always; yes, sir.

Q. And did you live in the Bethel Home, Mr. Rutherford? A. Yes, sir.

3191 Q. Did you live at the Bethel Home yourself? A. Yes, sir.

Q. Does your wife live there? A. Only part of the time, on account of her health she is required to stay in California most of the time.

Q. Now, do you receive \$15 a month; I think you have testified to that? A. During the past twelve months, yes. Not before that.

Q. And did Mrs. Rutherford receive any money while she resided there, do you know? A. Never did.

Q. Now, who else of the defendants resided at the Bethel Home?

3192

The Court: it has been all gone over.

Mr. Fuller: Well, I want to prove the entire amount of money received by each of the defendants.

Q. Does Mr. VanAmburgh live there?

The Court: They have all testified they received \$10 a month up to some few months ago, and since then they received \$15.

Q. Do their wives receive money?

The Court: How is that material what the wives receive or the children or the grand-

children? What they receive we are not trying the wives for.

Mr. Fuller: Well, that may be, but the wives and children receive more than that amount of money. It may be material.

The Court: Well, we won't go into what the wives receive, or the children receive.

Q. Do you know which of the defendants are married and have families?

The Court: Well, that is immaterial. How is that material?

3194

Mr. Fuller: I think that is perfectly proper.

Mr. Oeland: What effect would that have on the intentions?

The Court: He can testify as to the family. Well, I will let you put it in. Put it in.

A. All of the defendants are married, except Mr. Martin.

Q. Their wives and family live there?

The Court: Where they live is immaterial.

Q. Are the wives all engaged in the work?

The Court: Well, that is immaterial.

3195

Q. I show you a letter dated April 9, 1918, Mr. Rutherford, and ask you if you received this letter from the Adjutant General's office of the War Department? A. Yes, sir.

Q. And at the time you received it was there attached to it the executive order which is now attached to it, issued by President Wilson? A. Yes, sir.

Mr. Fuller: I offer this in evidence.

Mr. Oeland: We object to it on the ground of it being immaterial, irrelevant and incompetent.

3196

The Court: What is it?

Mr. Fuller: This is an executive order issued by President under date of March, 1918, and received by the International Bible Students' Association on April 9, 1918, designating pursuant to the Selective Service Law, the various branches of the service as noncombatant service.

The Court: Hasn't that been introduced before?

Mr. Oeland: No, sir; I gave your Honor a copy of the order. That may be where you got that.

3197

The Court: Why should that go in? That is a proclamation, of course, we will take judicial notice of.

Mr. Oeland: I am not objecting on that ground, but what relevancy has acts prior to that time?

The Court: Well, it will tend to show when he did define such service.

Mr. Oeland: Yes; that is true, but I cannot see the materiality of it. The only point I make is it is immaterial to any issue raised here that I see.

The Court: What is the date on it?

3198

Mr. Oeland: The 20th of March, 1918.

The Court: The Court will take judicial notice of such an order as that, would it not?

Mr. Oeland: Yes, sir.

The Court: It stands the same as a proclamation. You need not introduce it, Mr. Fuller.

Mr. Fuller: If the Court will take judicial notice of the contents of it so that we can refer to it.

The Court: We will. That stands just the same as the law. Either side may make such

use of any proclamation or executive order, which is published in its nature, that is material without it being proved. We are all supposed to know what that order was. We are all supposed to know what the statute passed by Congress is. Of course, the fact is that very few of us do, but it is unnecessary to introduce in evidence this paper. You refer to it the same as you would in a law book, the Act of Congress.

By Mr. Sparks:

3200

Q. Mr. Oeland asked you about certain shipments of "The Finished Mystery" to some place in the west, and suggested those shipments were made after you had lectured there, or delivered a certain lecture. Was that the reason of the shipments? A. Not at all. The lecture and the shipments had no connection with each other.

Q. What was the purpose of shipping the books to the different places in the country?

The Court: I thought that was for storage and distribution and not for sale. Do you expect to add anything to that?

3201

Q. Is that the effect?

The Court: That is what he said.

Q. Was that the purpose of it? A. That was the purpose of it because the railroad facilities were liable to be cut off, so that we thought we could not ship them probably later. That is why we had so many printed at one time.

Q. It had no connection with your lectures? A. No connection whatsoever.

Q. You had a credit with Conkey & Company at the time this book was published? A. Yes, sir.

3202

Joseph F. Rutherford

Q. So that no great amount of money was necessary to put the book upon the market? A. A very small amount.

Q. This affidavit that has been referred to was prepared at the request of the Legal Advisory Board? Some affidavit that has been referred to here that you signed for certain men that were claiming deferred classification? A. I had some request from the Legal Advisory Board for some information on the point, and prepared affidavits with that in view.

3203

Mr. Oeland: We have nothing further.

The Witness: May I ask permission, your Honor, to correct an impression that we are trying to convert the world. We are not trying to convert anybody.

The Court: You said several times you were not asking anyone to join.

The Witness: Well, I want to state my purpose.

By Mr. Fuller:

Q. Well, several questions have been asked you about converting all people that you could, is that your object or has it ever been? A. It never has. The work of the last forty years we designated as harvest work, which the Psalms says come unto me—

3204

Mr. Oeland: I object to that. It is preaching another sermon.

The Court: Yes, it is preaching a sermon. The Court has been very liberal and gone beyond all rules. I think you better draw this to a close without any further sermons or parts of sermons of what somebody else said.

By Mr. Fuller:

Q. Is your object merely to furnish people of the world with an opportunity for knowing the truth? A.

We understand the Scriptures to require of us to proclaim this message at this time. That is an obligation upon us to do that. Not for the purpose of converting anybody.

Q. Just for the purpose of letting the contents of the message be known? A. That is exactly the point.

The Court: The purpose in that is to do as much good as possible?

The Witness: The purpose is—

The Court: Can't you tell us yes or no?

The Witness: It is not to do harm, of course.

The Court: Don't you want to do as much good as you can?

The Witness: Yes, sir.

The Court: Well, the more people that believe and act in accordance with your belief is good that you are doing, according to your view?

The Witness: No. That is not our thought at all. Our purpose is to let the message be known that those who are consecrated to the Lord can be gathered unto him. That the time being designated by the Master as the harvest time and when the harvest is done all their work is done.

Q. Is there a statement in the Bible to the effect that none come together except they are drawn to the Lord?

A. That is Jesus' statement that no man can come unto me except that the Father that sent me draw him.

The Court: Mr. Fuller, what has that got to do with the proposition whether these defendants obstructed the recruiting?

Mr. Fuller: It has nothing to do with that proposition, your Honor—

The Court: What has it got to do with the proposition of whether they attempted to create insubordination. They put in their religious

3208

belief here for several days. The law of this nation is that their religious belief is no defence. And they put that in on the theory that they have not entertained a certain intention, or several intentions. You should hear what their intentions are—all their intentions—and not decide whether they intended what they did. Isn't that as far as you need to go?

Mr. Fuller: I think not in this one particular.

The Court: I think it is.

Mr. Fuller: I would like to make my point.

3209

The Court: Yes, you may. The trouble is. Here is a simple rule of law and that is challenged by the defense, and the rule is proclaimed that their ignorance of the law excuses them and is material, and the defense takes the position that they will not furnish the Court with citations and authorities. The Court should furnish them. The Court does that. It is very simple. A doctrine announced by the highest court of the land that religious belief is no defense, and now you bring up the proposition that this does not apply to the case. It does an extraordinary claim. I have opened the door and you have put in your religious belief to your heart's content.

3210

Mr. Fuller: I regret very much my inability to make clear my attitude towards those respective legal propositions. I do not agree with your Honor that the attitude of the defense on these legal questions that your Honor has suggested is the attitude of the defense. Seemingly I cannot make clear what that attitude is.

The Court: Perhaps I do not hear accurately. It may be that I do not understand, but I have given you great opportunity to explain it

in detail. Have you anything that modifies the doctrine announced in the Reynolds case? 3211

Mr. Fuller: No, sir.

The Court: Have you studied the case upon the subject?

Mr. Fuller: Not cases, to any extent. We have been all over the digest and examined those cases referred particularly, that seemed particularly applicable as far as we could, and I want to say that there has been no disposition to present to your Honor—we have looked, not with an extremely wide examination, but that there has been a great lack of time to get specific cases for you Honor since that request, or rather the Reynolds case has been suggested by your Honor. I have not had time in which to read the Reynolds case fully. 3212

The Court: Well, we will adjourn here for 15 minutes and you can read that case in five minutes. You say you have not read it?

Mr. Fuller: No, sir.

The Court: Now you can read it in five minutes, and we will adjourn for 15 minutes and you will read it. I think it will tend to clarify the situation here more than anything else. The case is in the library; if you come in I will give it to you. 3213

At 3:10 P. M. a recess was taken.

At 3:25 P. M. the trial was resumed and the same witness took the stand.

By Mr. Fuller:

Q. Was the purpose of preaching your doctrine to have as many people as possible come into the Lord's kingdom? A. No, sir.

3215

Q. Now what was its purpose? A. In answer to that question, we could not bring anybody into the kingdom ourselves. That is a matter entirely for the Lord. Our purpose was first in proclaiming the message to gather the saints together, and those who the Lord calls and secondarily to notify the world that there is a hope for all mankind, because the time when Jesus was born, the angels announced this message "Behold we bring you glad tidings of great joy which shall be unto all people" and we believe that the church is now being completed. It is time to announce to the world that there is hope for all mankind.

Q. So that your purpose is the announcement to the world, under instructions that you feel that you have received from God, the message of this hope, is that right? A. That is right. The message I was trying to proclaim at the time that this trouble arose, or this—

3216

The Court: Well, you have now covered the purpose of that question.

Q. You have covered both purposes? A. Briefly, yes, sir.

WILLIAM E. VAN AMBURGH was recalled as a witness for the defense and testified as follows:

Direct-examination by Mr. Sparks:

Q. Mr. Van Amburgh the \$5,000 which was donated by Mr. Butterfield was that recorded as a loan?

A. No, sir.

Q. And was it carried by you on your books? A. It was not carried by me on my books until some time a little later in the fall when the account was turned over to me by Mr. Rutherford, and Mr. Butterfield was then given credit for a donation of \$5,000, and he was credited with 500 voting shares, as we credit all donations.

3218

Q. That is, you followed the usual practice that whenever a person makes a donation to credit him with a similar amount of voting shares? A. Whoever donated \$10, or more to the society was credited with one voting share for each \$10 so donated, and Mr. Butterfield was credited with 500 shares as the books show.

Q. But that was not carried in any sense as a loan? A. No, sir.

CROSS-EXAMINATION by Mr. Buchner:

3219

Q. Did you only do that, Mr. Van Amburgh, for the purpose of straightening out your financial books? A. I do not catch your question.

Q. Did you only transfer this as a loan on this record for the purpose of straightening out your financial books? A. May I see the record? This book-keeping is not in my handwriting. I do not know why the word loan was there.

Q. And that is a part of your book? A. Yes, sir, but that is not my handwriting. That is my book-keeper.

Q. Well, you had general supervision of that? A. I had general supervision, yes, but I did not look over the items entirely. I gave the items to my bookkeeper.

Q. Didn't you supervise all the financial books of the association? A. Yes, but I see this little item. I might explain that possibly. She may have misunderstood. I probably said donation. She is not very clear of hearing, and might have misunderstood me, and that I said a loan, but I certainly did not make a loan out of it.

3221 Q. The way it reads there it is not a loan or a repayment of a loan? A. No, sir.

Q. Would that be a loan? A. No, sir, I do not know why that is there.

Q. Does that mean anything? A. Not to me.

Q. Well, if it was a transfer to the donation book and the \$5,000 was put there for the purpose of keeping your accounts straight should not \$5,000 also be in the other column? A. It is, yes, sir.

Q. Where is it? A. Not on this sheet. That would go in what we call the donation record.

Q. No, I do not mean that. But you put this under the head of debtor, haven't you? Which is it, debit or credit? It is on the debit side of your G account? A. Yes, sir.

3222 Q. Shouldn't \$5,000 also be here on this credit account? A. No, sir.

Q. Wasn't the \$5,000 for G? A. No.

Q. Isn't that what Mr. Rutherford said? A. No, because the society had taken it up and we gave Mr. Butterfield credit for the \$5,000 in the Watch Tower Bible & Tract Society as a donation. Therefore, it would not come as a credit on this account.

Q. When Mr. Rutherford got this \$5,000 and spent for volume G shouldn't that \$5,000 have been in this credit account somewhere? A. Mr. Rutherford received the \$5,000 used to enter his own personal check

and later turned the record, or account, into the G account; then it was there charged up \$5,000.

Q. That is \$5,000 paid out of the G account? A. That is \$5,000 paid out of the G account.

Q. Where is the \$5,000 paid into the G account of this Butterfield money? A. The \$5,000 came in was credited as a donation from Mr. Butterfield.

Q. Now that is not what I am asking you, Mr. Van Amburgh, where is the \$5,000 credited in the G account; it ought to be credited to make a debit? A. I see your point. The \$5,000 is included in some of these larger amounts that went out here \$17,000, or various other accounts. I do not know but it is in one of those. 3224

Q. It is in one of those? A. Yes, sir.

Q. Sure of that? A. Yes, sir.

Q. And what is this \$1,250 by credit of George Butterfield account on the 18th of October? A. I do not know. It may have been a further donation.

Q. Don't you know? A. No. I would have to go to work and look it up.

Q. Is any part of that \$600 credited to Mr. Rutherford part of Mr. Butterfield's donation? A. Mr. Rutherford had an account in New York and he paid \$600 out of this Butterfield account, then we paid Mr. Rutherford back this \$600. 3225

Q. Didn't you hear Mr. Rutherford say he had spent \$600 for the 7th volume that he was sure it was not over \$500? A. That has nothing to do with that account.

Q. Why should credit go to Mr. Rutherford if it was not his money? A. Mr. Rutherford was carrying the Butterfield money but later turned in to his account.

Q. The \$150 entered below that, George Butterfield, is not credited to Mr. Rutherford or mention made of it? A. I do not recall that item at all. There

are thousands of accounts that we carried. It would be impossible for me to carry any amount like those.

Q. Was not impressed on your mind at all, as to this Butterfield money? A. That \$1,250, no, sir.

Q. Is there anything in your mind as to this \$5,000? A. Yes, I remember that.

Q. You remember that? A. Yes, sir.

Q. When did Mr. Rutherford get that \$5,000? A. I do not know the date he got it.

Q. When did you know he had it? A. Somewhere—I do not recall the date—somewhere just before the printing order. I would have to get some data to satisfy myself.

Q. You cannot recall that either? A. Not the date.

Q. All you remember about the \$5,000 is there was a \$5,000, is that all? A. Yes, sir. That he sent to Mr. Butterfield.

Q. How do you know he sent it? A. I suppose he did.

Q. You did not see the check? A. No, sir.

Q. You did not know anything about it except the entry in the book? A. I did not see the check; Mr. Rutherford handled that himself personally.

Q. Did you make this \$5,000 entry on Mr. Rutherford's pure say-so? A. No, I had some data from Mr. Rutherford.

Q. You remember that? A. I do not make entries on the books without data of some kind. That is a rule in our office, not to give any expenses or receive anything without data.

Q. Well, then, how is that you have no data on the \$1,250? A. I did not say I did not have any data. I said I had no remembrance.

Q. Have you got data on that \$600? A. I presume I have in the office.

Q. You do not know? A. Because, we do not keep books without data. I presume if I went down to the

office and looked up the records I could find it. The instructions have been given to have data for every entry.

Q. And that is all you remember about it, that there are instructions given to that effect? A. There are instructions given to that effect.

Q. But you have no recollection now as to any of these details? A. I said about the \$5,000 I remember the particulars of the \$5,000. I do not remember the data, but I presume it is in the office.

Q. That is just a presumption? A. No. There are instructions there that there should be no entries on the cash book of any kind without data.

J230

Q. I am not asking you your instructions; you say you presume there is data for this \$5,000. That is all your presumption? A. It ought not to be, because there are orders to that effect. It ought to be a fact.

Q. There are other orders that are not complied with in that office? A. Very seldom.

Q. You wrote two letters here on doctrinal matters? A. Yes, sir.

Q. Didn't you hear Mr. Rutherford say you had no right to write those? A. He said I had no instructions from him.

Q. You had no instructions from him to write them? A. I think Mr. Martin laid them on my desk as I testified before.

3231.

Q. You did not have any right to write those under the rules of your organization, did you? A. If Mr. Martin should put some letters on my desk and ask me to reply to them I would take it under his management I had a right to do so.

Q. Well, now, listen to this. This is part of the rule, isn't it: "And the treasurer, as such, has no authority to give orders concerning the work of the Tabernacle. His orders are confined to his office to

3232

William E. Van Amburgh

the keeping of the books, receiving money, paying bills and so forth"? A. That is true.

Q. It is explicit? A. Yes, sir.

Q. And that is all you had any authority to do? A. Did not say I could not do more than I was privileged of doing.

Q. Anything that is not forbidden anybody may do; is that right? A. In our great work there—

Q. Is that right? A. It is with an explanation. I would like to have the privilege of explaining that.

3233

The Court: You may.

The Witness: I beg your pardon?

The Court: You may.

The Witness: After Pastor Russell died, or during Pastor Russell's death, most all doctrinal questions were referred to him. After his death, I being the senior member, was frequently asked to answer doctrinal letters, which I did. I have several hundred doctrinal letters there. I was asked to answer all of them before Mr. Robison came. Occasionally he would hand in other letters asking me if I would answer them and I simply replied to his request and I broke no law in doing so.

3234

Q. You did answer these letters in accordance with orders for Mr. Martin? A. He simply asked me if I would answer them.

Q. So Mr. Martin referred those letters to you? A. Yes, he simply placed them on my desk, as far as I know. I would receive orders from nobody else with regard to them.

GUY S. MILLER, recalled on behalf of the defendants, testified as follows:

Direct-examination by Mr. Sparks:

Q. Mr. Miller, you testified yesterday that on a certain day in November, 1917, I believe, you counted the "Bible Students' Monthly," Vol. 8, 4, and that there was 21,000 there, and that you counted the number on hand the other day and that there was 17,000, and consequently you thought 4,000 had been distributed? A. Yes, sir.

Q. And consequently you thought 4,000 had been distributed? A. Yes, sir. 3236

Q. And you subsequently discovered the existence of the additional 4,000 in the Tabernacle? A. Yes, I have. I found four extra thousand in another part of the basement.

Q. So that there is now on hand the original figure, 21,000, that you testified to? A. Yes, sir.

Mr. Oeland: There is no cross-examination.

Mr. Fuller: The defendants rest.

Rebuttal.

3237

CLARENCE L. CONVERSE, recalled on behalf of the Government, testified as follows:

Direct-examination by Mr. Oeland:

Q. Mr. Converse, I hand you Exhibit 34 in evidence and ask you if you saw those before? A. Yes, sir.

Q. Where did you see them? A. On the desk of Mr. Robison at 122 Columbia Heights, on March 4, 1914.

Q. And you received them at that place? A. Yes, sir.

Q. Was this all that you saw there, or were there others? A. There were other affidavits and different form letters and also a list of the different forms which Mr. Robison handed to me.

Q. I hand you that Exhibit 36 for identification; is that the list of forms that he handed you? A. Yes, that is.

Q. What did he say about them? A. He said he had not had much chance to talk with Mr. Rutherford before he left, and Mr. Rutherford had left him this list of forms to use in answer to letters pertaining to the draft.

3239

Mr. Oeland: We offer this in evidence.

Mr. Sparks: I object on the ground it is a list in compliance with the Selective Service Law and the provisions are under the Selective Service Law for the forms themselves.

The Court: Isn't this a paper that one of the defendants denied?

Mr. Oeland: Yes. Mr. Rutherford testified he never saw it.

The Court: This witness—

Mr. Oeland: Testified that it was given to him by Mr. Robison and handed to him by Mr. Rutherford before he went away.

The Court: That would not be any evidence against Mr. Rutherford.

Mr. Oeland: Well, I offer it against Mr. Robison.

The Court: Yes, it is admitted for that purpose.

Mr. Fuller: As against Mr. Robison I think it is incompetent, immaterial and irrelevant.

Mr. Oeland: Merely to identify a certain list, and then we are going to offer against in-

3240

strument which we will show was identified by that list.

The Court: It is admitted.

Exhibit 36 for identification was then received and marked in evidence.

Q. I hand you Exhibit 35, two copies for identification, and ask you when you first saw those? A. On the desk of Mr. F. H. Robison, at 122 Columbia Heights, on March 4, 1918.

Q. You obtained them from his desk? A. Yes, sir.

3242

Mr. Oeland: We offer those in evidence.

Mr. Sparks: I make the same objection, that it is simply one of the forms provided for in one of the Selective Service Law, and cannot be made the basis of any criminal charge.

Mr. Oeland: That is directly contrary to the form.

The Court: One of the forms they got up?

Mr. Oeland: Yes, sir.

The Court: It may be admitted.

Exhibit 35 for identification was then received in evidence and was read to the jury by Mr. Buchner.

3243

Mr. Sparks: Mr. Fuller, there will be no cross-examination of this witness.

Mr. Oeland: I now move that all the evidence which has been admitted from time to time against the various defendants be admitted in evidence against each and all of the defendants and I specify particularly the following matter: The DeCecca letters; they may be admitted?

The Court: They may be admitted.

Mr. Oeland: The Robison letters?

The Court: Yes, those may be admitted.

3244

Mr. Oeland: The letters by Van Amburgh?

The Court: Yes, it is admitted.

Mr. Oeland: The D'Onofrio letters?

The Court: It is admitted.

Mr. Oeland: The statements and testimony of Mr. Fisher and Mr. Woodworth as to the manner and form and preparation of the book, working together?

The Court: It is admitted.

Mr. Oeland: And the book itself, and the portions that were read in evidence be admitted against all the defendants?

3245

The Court: Well, I say the book itself; I mean those portions that were read in evidence.

Mr. Oeland: And next the contracts signed by Mr. Rutherford for the printing of the books?

The Court: Yes.

Mr. Oeland: And the check which was offered in evidence at the time against Mc-Millan and Van Amburgh be admitted against all the defendants?

The Court: It may.

3246

Mr. Oeland: And the letters written by Mr. Rutherford, having in mind particularly the Insberg letters, the letter to Jerry De-Cicca, the letter to Woodey. I think that covers all of the evidence that was restricted in any way at the time it was offered. I do not recall that the Court restricted the "Bible Students' Monthly" of October 4, 1917, being the reprint copies. We move it be admitted against all of the defendants.

The Court: Well, that may be considered as in.

Mr. Oeland: And the testimony of Mr. Van Amburgh, given before the local board,

which was read into this record while he was on the witness stand, without being prior to and during the progress of the alleged conspiracy. 3247

The Court: That, I think, was done in pursuance of it.

Mr. Oeland: Yes, sir. That was during the progress of what we say was a conspiracy. That his testimony was given and his affidavit was given in support of that claim.

The Court: Well, these pieces of evidence may be admitted under the conspiracy counts.

Mr. Oeland: Against each and all of the defendants? 3248

The Court: Yes, and if you want an exception to the admission of each piece—

Mr. Fuller: With the exception of the book, I want to have an exception to the defendant DeCecca about his participation in the book. it does not appear—

Mr. Oeland: He sent thirty copies to Camp Devins to Nicita.

Mr. Fuller: My recollection is I tried to follow it. It is our contention that a conspiracy is not shown here and that in the absence of a conspiracy these various acts are not properly evidence against any of the defendants, except those whose personal participation in that appears. 3249

The Court: There is an Act of Congress which provides that anyone who aids, assists or abets another are both principals.

Mr. Fuller: We are charged with the violation of Section 4 of the Espionage Act, that particular section which provides for a conspiracy to do the things which is prohibited in Section 3.

3250

The Court: Yes, but under the counts for attempting to cause insubordination and to obstruct recruiting service, of course, we have got to have in mind the Act of Congress which provides if any person aids, assists, abets, counsels another in the commission of a crime, they are all principals and are all equally guilty.

Mr. Oeland: That is true and it conforms with the indictment.

The Court: That applies to the substantive counts 3 and 4.

3251

Mr. Fuller: Under counts 3 and 4, in order that these various acts may be admissible in evidence against coprincipals, some degree of guilty knowledge of the act itself is necessary to be shown in order to make a conspiracy. The question of guilty knowledge is immaterial with respect to any of the individual acts. Now, I want to object to the reception of these exhibits to the defendants of the first two counts, upon the ground that the conspiracy has not been shown, and that on the second two counts upon the ground that knowledge of the document or act which, by this motion, was extended to the other defendants, is not shown to have been possessed by the other defendants so as to make the acts proper evidence against them.

3252

The Court: These objections are overruled and each defendant has an exception to the overruling of each objection.

Mr. Sparks: Before the Court considers the case closed, I would like to offer "The Finished Mystery" as reprinted in evidence to be considered as a part of it.

The Court: When was that reprinted?

Mr. Sparks: That was reprinted after

March, 1918, when we first learned of the Government objection, and was done in pursuance of the testimony which Mr. Rutherford gave. 3253

Mr. Oeland: We object to this, because it is wholly immaterial and irrelevant. That is no defense to this action at all.

Mr. Sparks: On the same theory that the Court admitted the same line of testimony from Mr. Rutherford.

The Court: I said when I admitted some of these pieces of evidence that I did not think they would be material. They would be very material upon a question of sentence when a person, after he committed a crime, has stopped and perhaps proposes to be good. That is a proper thing to take under consideration as to how much he should be punished, but it is no defense for what they done in the past. 3254

Mr. Sparks: It is on the same line of testimony and the same theory as that the other evidence was offered.

The Court: That other evidence was that circular letter, wasn't it, in which it called on subscribers not to sell any more books, and not to use it in classes even, except that certain pages were removed, and also said they were having it carefully investigated. There was no evidence put in later as a result of that investigation. Well, I am inclined to go the full limit on this. We have been kind of broad, so we might as well go the full limit. But, the only signification that we can draw from that would be that we conclude the book was illegal. They violated the law and proposed to change it. I think you better let it go in, as long as the Court has adopted the most liberal policy. We better not mar that now, we are so near through. 3255

3256

The book was then received in evidence and marked Exhibit O.

Mr. Fuller: We wish to renew the motions made at the end of the People's case in all of their fullness.

The Court: I forget; there were so many. I forget what they were, but you better refer to the transcript and recall them. I would not like to overrule those in a bunch, because I do not recall just what they were.

3257

Mr. Fuller: I renew my motion made with respect to the defendant McMillan at the end of the People's case that a verdict be directed dismissing the first and second counts of the indictment charging conspiracy, upon the ground that the evidence does not disclose any participation by this defendant McMillan in any such conspiracy.

The Court: You put in some evidence against him just before you rested?

Mr. Oeland: Yes, the evidence being a recital by Mr. Rutherford at a meeting that he had consulted with McMillan about the book.

The Court: And the report of the directors' meeting incorporated into the record of the directors' meeting.

3258

Mr. Oeland: And the writing signed by Mr. McMillan that he approved of it.

The Court: Yes. Well, there were some other things, too. I will deny that motion and the defendant McMillan has an exception. It is denied as to each count separately, and an exception allowed to each ruling separately so that will save each question.

Mr. Fuller: I renew the motion made with respect on behalf of the defendant McMillan, with respect to the third and fourth counts

upon the ground that there is no evidence supporting the charge that the defendant McMillan violated the law with respect to either of these two counts.

3259

The Court: The first count is a conspiracy for insubordination to refusal to duty and disloyalty. The second count is conspiracy to obstruct recruiting and enlistment service, and the third count is for attempting to cause insubordination, disloyalty and so forth, and the fourth count is for obstructing recruiting and enlistment service. Did he aid and assist in any way in getting out the book? Did he have something to do with the money?

3260

Mr. Oeland: The proof is that he countersigned the check that paid for the book, according to the testimony—

The Court (interposing): That is McMillan?

Mr. Oeland: Yes, sir.

The Court: I had in mind Martin. McMillan wrote these various letters.

Mr. Oeland: No, sir; Robison and Van Amburgh wrote these letters; McMillan was assistant to the president, and in the absence of the president he had general control, but he testified that at a meeting the D'Onofrio letter was read and that Mr. Rutherford consulted with him about the publishing of the manuscript, and that he knew the book was being circulated widely and that he read it.

3261

The Court: I will deny the motion.

Mr. Oeland: And Mr. Rutherford signed the contract.

The Court: I will deny the motion as to each of the counts, and the defendant McMillan has an exception as to each ruling.

3262

Mr. Fuller: Now, I desire to make a like motion on behalf of the defendant Fisher that the Court direct a verdict in favor of him with respect to the first and second counts.

The Court: Mr. Fisher wrote part of the book?

Mr. Fuller: He wrote Ezekiel. Upon the ground there is no evidence connecting the defendant Fisher in any conspiracy.

The Court: Didn't he copy the parts written by Mr. Woodworth?

3263

Mr. Oeland: Woodworth copied his parts. He circulated the book, after reading it. Your Honor remembers his testimony is: "I asked him why he put in this part that it was a crime to carry on this war, and he said there was a strong current of public opinion at that time and he wrote it after it was published and circulated."

The Court: He had some of the books, gave some away and sold some. Yes, I will deny the motion as to this defendant and he has an exception as to each ruling. It is to be considered as a separate ruling as to each count, namely, the first and second counts.

3264

Mr. Fuller: I make a like motion on behalf of the defendant Fisher with respect to the third and fourth counts, upon the ground there is no evidence supporting the charge contained in either of said counts as against the defendant Fisher.

The Court: It is denied as to the third and fourth counts. This defendant has an exception as to each ruling.

Mr. Fuller: Now, I ask to make precisely the same motion on behalf of the defendant Woodworth with respect to the first and sec-

ond counts, and in respect to the third and fourth counts.

The Court: Well, each motion is denied, namely, the motion for the first, second, third and fourth counts, and this defendant has an exception to each ruling.

Mr. Fuller: I desire to make the same motion on behalf of the defendant DeCecca, that there is no evidence whatever for a direction of a verdict on the first and second counts, upon the ground there is no evidence whatever connecting the defendant with the alleged conspiracy.

The Court: It is denied as to the first and second counts, and this defendant has an exception to each ruling.

Mr. Fuller: I desire to move for the direction of a verdict in favor of the defendant DeCecca upon the third and fourth counts, upon the grounds that the several letters in evidence for which he is shown to have been responsible, namely, to his brother, do not constitute a violation of Section 3 of the Selective Service Law, as charged.

The Court: Because it was to his brother? He said enough in that letter, didn't he?

Mr. Fuller: Not to show any intent whatever to cause either insubordination or interfere with the draft. I think all those letters were written at a time when his brother was awaiting court martial.

The Court: When he was waiting?

Mr. Fuller: I think the letter indicated that his brother had been charged—brought up on charges. The letters were letters to his brother.

The Court: Did he say anything about refusing to do anything, even to the extent of being shot?

3268

Mr. Fuller: On that he said what he would do if he were under those circumstances, but he told his brother to follow his conscience and not do as the writer would do.

The Court: Well, I am inclined to deny this motion as to these counts and the defendant has an exception to each ruling.

3269

Mr. Sparks: On behalf of the defendant Robert J. Martin, I move the Court to direct a verdict in his favor on the first and second counts of not guilty, on the ground that there is an entire absence of evidence to in any way connect this defendant in any conspiracy as charged in the first or second counts of the indictment.

The Court: What have you to say to that?

Mr. Oeland: The testimony as to Mr. Martin is that he consulted with Mr. Rutherford somewhat about these books; that he had charge of the general distribution of the book after he read it; that in addition to that, while he may have denied it, other proof shows that every letter that went out of there should come under his supervision, and in addition to that, he went out to Hammond and distributed the first issue of this book.

3270

The Court: It is denied and an exception to this defendant as to each ruling.

Mr. Sparks: I make a like motion on behalf of the defendant Martin in reference to the third and fourth counts, on the ground there is no evidence tending to establish that he in any way caused any insubordination or interfered in the draft in any way as specified in the Espionage Act.

The Court: Denied as to the third and fourth counts, and the defendant Martin has an exception to each ruling.

Mr. Sparks: On behalf of the defendant Frederick H. Robison, I move to dismiss the first and second counts of the indictment on the ground there is no evidence in any way connecting with the defendant with any such conspiracy. As to this defendant, the Court will recall that he came here in December, 1917. He went to the Tabernacle on the 20th or 21st, I think, in December, 1917; that the only evidence in this case that in any way concerns him is that he sent out certain letters which have been offered in evidence; that that in no wise connected him in any conspiracy. 3271

The Court: Well, what do you say to that rule that a person may join a conspiracy already formed? They do not have to all commence at the same time. 3272

Mr. Sparks: I know, but there is no evidence which would warrant the assumption that he did join in a conspiracy. That rule might apply, but there is no evidence in this case that the defendant joined any conspiracy, except that he was in the house with a number of the other defendants.

The Court: He wrote quite a good many letters in which he advised against doing anything until the President defined the service. 3273

Mr. Sparks: If the Court should hold that was a violation of the Espionage Act, it might be held on the third and fourth counts for the jury to consider, but certainly that does not of itself in any way show his connection with the conspiracy. There is no claim of a conspiracy. To send out these letters there is no conspiracy.

The Court: This motion is denied as to the defendant Robison as to the first and sec-

'3274

ond counts, and the defendant has an exception to each ruling.

'3275

Mr. Sparks: On behalf of this defendant Frederick H. Robison, I move to dismiss the third and fourth counts of the indictment on the ground there is no evidence tending to show that he violated any provisions of the Espionage Act, and that the only act shown to have been committed by this defendant is advice given by him to certain persons who wrote him for advice. That the defendant Robison, in sending out his answers to these letters was clearly acting within the provisions of the Selective Service Act itself and in the rules and regulations promulgated thereunder, the rule and regulation of the President that every citizen should advise or see that the provisions of the Selective Service Law itself were carried out.

'3276

The Court: You must specify to me just what those provisions are, if you please. As I recall that act, it provides that no one shall be exempted except such as have been found to be conscientious objectors, and that if a person is found to be such a person it would be his duty to obey the military authority in the army. And he would be obeying the authority if he had been found to be a conscientious objector, because he would have to do, then, what the President prescribed. You say you want this motion granted because of certain provisions in the Selective Service Law, and the rules and regulations, and I would merely like to have you point out to the Court just what parts of the act you rely upon and just what rules you rely upon.

Mr. Sparks: I rely on Section 4 of the Act itself.

The Court: You read that, please.

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Mr. Sparks: "And nothing in this Act contained shall be construed to require or compel any person to serve in any of the forces herein provided for, who is found to be a member of a well recognized religious sect, or organization at present organized and existing whose existing creed or principles forbid its members to participate in war in any form and whose religious convictions are against war or participation therein in accordance with the creed or principles of said religious organization, but no person so exempted shall be exempted from service in any capacity that the President shall declare to be noncombatant."

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The Court: Now, that provides that he should not be relieved of it entirely. It has been found to be a conscientious objector and so forth. Now, as I recall it none of these persons that the defendant Robison wrote to had been found to be such persons.

Mr. Sparks: I think the evidence isn't that way, that in a number of cases the letters themselves from the registrant states that he has been classified by his local board to be a member of the organization.

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Mr. Oeland: They refer to both matters. Both where he had been in some instances, where he said he had been classified and wants to know if he should do noncombatant service, or do anything in camp, and they say do not do anything.

The Court: Supposing a person had been found to be a conscientious objector. Now, he is kept in the army. He must do something until the President prescribes that service, why

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is he entitled to go into rebellion against all officers in the army? Is he entitled to do that?

Mr. Oeland: No, sir. It is our contention that he is to be classified and put into service. He writes that letter and he says, "No, we advise you not to do anything but refuse to do it," and in many instances they had already been classified when they received that advice.

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Mr. Sparks: Rule 13 says: "The principles of such religious organization shall be furnished by such local board with a certificate to that effect and to the further effect that by the terms of Section 3 of the Selective Service Law, they can only be required to serve in a capacity declared by the President to be non-combatant. He shall be classified, however, as is any other registrant; but he shall be designated upon all classifications, forms, records, certificates, and other writings of local and district boards, in which his name appears by the insertion of a cipher 0 after his name," and then he remains free from any service until after the President formulated his rules, and he was not be inducted into the service until after the President had defined what non-combatant service was and up to that time he was free from any military duty.

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The Court: Is that the way you construe that? The Circuit of Appeals in the *Angelus* case, I believe they said that these tribunals constituted to pass upon these questions were the ones to hear and determine all these questions, that the civil courts had nothing to do with it. These various boards and tribunals constituted to decide these army questions, if they decide them wrong, the civil courts could not overrule them. The only power that the civil courts had

was to see to it that they were given a trial in the military tribunal. Now, if we should stop here and say that this board, that board and various other tribunals, constituted to try these military questions, that they ought to decide them erroneously or had not decided them at all, why the army would not be able to make very much progress and that seems to be a pretty well settled policy. And Judge Rodgers wrote a very long opinion in the Circuit Court of Appeals in New York.

Mr. Oeland: As far as I know it has been universally followed.

The Court: He did not announce any new doctrine. 3284

Mr. Oeland: And I think it has been confirmed by the Supreme Court of the United States in one of those western cases where they appealed from that ruling. It was decided about six or seven months ago.

The Court: I will deny these motions as to the 3rd and 4th counts, and this defendant has an exception to each ruling.

Mr. Sparks: I move for a directed verdict of acquittal for the defendant Joseph F. Rutherford on the first and second counts on the ground that there is no evidence connecting him with the conspiracy, or conspiracies set forth in those counts. 3285

The Court: It is denied as to the first and second counts, and this defendant has an exception to each ruling.

Mr. Sparks: I base my motion on that respect on the ground that the defendant Rutherford was acting solely as an officer of the corporation, or a membership corporation. A mere holding of an office itself is no evidence

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of his conspiracy in connection with the conspiracy, and that he was only performing his duties as an officer of the association in doing what he did. I make the same motion with reference to the defendant Rutherford on the 3rd and 4th counts, on the ground there is no evidence tending to show that he in any way interfered with the draft or caused insubordination in the military or naval forces of the United States as charged in the words of the indictment itself.

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The Court: What difference did it make whether this defendant was the president or any other officer of the corporation? He would not have any greater right because he was the president, would he?

Mr. Sparks: No. My motion is based upon the fact that he did these things as an officer of the corporation itself and not doing them individually.

The Court: Does that make any difference?

Mr. Sparks: Yes. I think the question in such a case—there must be an intent, an act by an individual when a person is acting as an officer.

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The Court: Well, from that doctrine a man who is the president of a corporation can do things, that he could not do individually?

Mr. Sparks: Yes, unless he had intended to do those things, that he was acting for and on behalf of the corporation in carrying out the orders of the corporation that may be expressed by its Board of Directors and officers.

The Court: There is no evidence here that he was carrying out any orders except those that he made or helped make. I do not just see how that makes any difference whether

he is president or whether he was a doorkeeper or janitor. What do you say about that, Mr. District Attorney. This is another new question to me. I did not suppose it made any difference as to what office a man held?

Mr. Oeland: I had always supposed the law to be, and still think it to be, I never heard it questioned before, that a man can act in an official capacity, he must act individually, in other words, an individual act of his in carrying out some corporate act, and it is no defence to him that he acted as president because he also acted individually, unless by some duress he is forced to act. That is the only rule I have ever heard that excuses a man for his act.

The Court: The motion may be denied on each ground as to each of the counts, and this defendant has an exception to the denial of the motion on each ground and as to each count.

Mr. Sparks: I make the same motions as to the defendant Van Amburgh, upon all the grounds specified in reference to the Rutherford motions, upon all the counts.

The Court: Denied as to the 1st, 2nd, 3rd and 4th counts as to the defendant Van Amburgh and on each ground as specified in the motion in behalf of the defendant Rutherford, and the defendant Van Amburgh has an exception to each ruling of the Court and on each ground.

Mr. Sparks: Exception to each of the other defendants. I assume that your Honor made that statement as to the other defendants. I was trying to follow your Honor's language at that time, but I assume I can take an exception as to all the motions made?

The Court: Yes, if by inadvertence the Court has omitted to reserve an exception to

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any of the defendants, on any of the grounds in their motions, or as to any of the motions an exception is now reserved to them to the denial of each motion and on each ground.

At 4:35 P. M. the Court adjourned until 10 A. M., June 19, 1918.

June 19, 1918, 10 A. M.

Case continued.

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The Court: In this case, unless there is some ambiguity in the language used, can some intention be gathered from the words themselves rather from the testimony of the parties who wrote the different things?

Mr. Sparks: I should say the intent is to be gathered from all the evidence, if the Court please, the idea of the person where he was, what he said, what his explanation may be of a writing—

The Court: That would be on the question of intentions, but what the language means should be gathered from the words used unless there is an ambiguity in the language, isn't that right?

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Mr. Sparks: I could not subscribe to that doctrine, if the Court please, in a criminal case. I think in a civil case, where there is no ambiguity in a contract or anything of that kind, then the Court, as matter of law, may instruct the jury as to its legal effects, but where there is any question about it—that is, unless it is so clear the Court cannot say that there may be two different interpretations, why, then, it is solely a question of law, but if by any reasonable construction men may differ—for instance,

take a contract that seems perfectly clear on its face, and one of the parties to the contract acts in one way in reference to it and the other party acts in a different way, showing that they both interpreted it differently, then in that case if the Court please, it becomes a question of fact for the jury, but in a criminal case where intent is the essence of the crime—

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Mr. Oeland: The language must be taken in its ordinary everyday acceptation the construction which one ordinarily would place upon the use of that language.

The Court: And in case there is no ambiguity, then read it so as to give the words their ordinary meaning. Now, I have looked over all these documents, paper and letters and I fail to find any ambiguity in the language used, so it occurs to me that there is nothing here for the Court to construe. Now, if the defendants claim there is an ambiguity in the language which they used in the books, in the papers and in the letters that have been introduced in evidence, I would like to have that pointed out to the Court some time before the charge is given.

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Now, there is one other suggestion. It has been quite a long time since the passages in the book were read and I would suggest that someone read those passages before the argument begins. Those passages that have been introduced. It seems to me it would be more helpful to the Court and jury.

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Mr. Sparks: Counsel in summing up, of course will read those passages to the jury in their arguments. I don't see how we can address the jury without reading those various passages very clearly and distinctly to the jury on the argument.

The Court: Very well.

Mr. Sparks: We will have to ask the indulgence of the Court to reopen the case for just a few minutes.

FRED H. ROBISON, one of the defendants, being recalled, further testified:

By Mr. Sparks:

3299 Q. I show you Government's Exhibit 36 in evidence and ask you if that is the instruction paper that was left with you by Mr. Rutherford at the time he went away (showing witness paper)? A. No, that is not the one.

Q. The sealed instructions that were left with you are on a blue piece of paper? A. A blue piece of paper, letter size.

Q. Have you any recollection of ever seeing this before? A. No, I have no recollection.

Q. Mr. Converse said he took from your desk Exhibit 35 in evidence. Did you ever in your life see that paper before (showing witness paper)? A. Never did.

3300 Q. And if it was in your desk you had no knowledge of it? A. No knowledge of it.

Q. The paper with this writing on, do you recognize that as any of the paper used at the Tabernacle? A. No, this was not the paper used there.

Q. You can state from your knowledge that the paper, the character of the paper with this writing on is not the paper which was used in the Tabernacle? A. Yes, sir.

Q. Are you conversant with this sort of type, this letter is written in? A. No; we have no typewriters with that face.

CROSS-EXAMINATION by Mr. Oeland:

Q. That is printed and not typewritten, isn't it?
A. It looks like it were near style of some mechanical means of production.

Q. It is not typewriting at all, is it? You would not call that typewriting? A. That is taken from typewriting.

Q. Everything may be taken from typewriting, but that is not the product of a typewriter, it is some kind of a mechanical reproduction? A. It looks to me like it was taken from a stencil made on the typewriter.

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Q. You judge from that that there were a great many copies of it made, would you? A. I don't know; as to that, I am sure. I don't know anything about that.

Q. Would you say that was not made there in the "Watch Tower" (showing witness paper)? A. I would not say it was not made. I will say it was not the sealed instructions Mr. Rutherford left with me.

Q. You see there a list of certain things. Did you have any of those in your office there? A. That I don't know. I didn't keep tract of them.

Q. (Reading.) "Claim of discharge from selective draft, Form 121." You understand that there was a Form 121 in the Selective Draft Act? A. Yes, sir; I know that.

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Q. (Reading.) "Affidavit of person whose discharge is sought, Form 143. You had some 143 forms around there? A. I think so.

Q. (Reading.) "Affidavit of clerk or minister in support of claim, Form 143-A." You had seen some of those? A. I know what it is.

Q. (Reading.) "Additional affidavit of Brother Van." Who would you understand that to mean? A. It sounds like Van Amburgh.

3304

Fred H. Robison

Q. You know he had prepared 1,800 of those affidavits? A. I don't know about the quantity.

Q. (Reading.) "Claim of appeal for persons certified to District Board, Form 143." You had seen that form, notice of appeal? A. I believe I had seen such a form.

Q. (Reading.) "Notice of claim of appeal for persons certified to District Board, Form 151." You had seen that? A. I don't know about that one.

Q. "Letter of appeal to Governor of State"? A. I don't remember that.

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Q. "Notice to chairman of local board." Wouldn't you take this to be notice to chairman of local board (showing)? A. No. Seems to be a letter addressed to the chairman of local exemption boards.

Q. It notifies him he refuses to do anything? A. Yes, sir, but I don't know anything about this.

Q. Look at it and see if it is not a notice to the chairman of the local board? A. That is what it says at the top, of course. That doesn't say I know anything about it.

Q. Doesn't he notify him there that they put him in the draft improperly and that he absolutely refuses to do anything? A. Yes, sir; that is what it says.

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I had nothing to do with it. Never saw it before.

Q. "Instructions to registrant filing questionnaire." You had instructions around there to registrants filing questionnaires? A. Not that I know of. I didn't have anything to do with the file.

Q. "Instructions rephysical examination, sample." A. I don't remember that.

Q. "Instructions in case appeal is denied, sample." A. I don't recall that at all.

Q. "Affidavit of regular minister of religion, Form 114, sample; affidavit of head of family in support, Form 114-A, sample; Form 114-B, sample." Did you have those forms there? A. I never saw them.

RE-DIRECT EXAMINATION by Mr. Fuller:

Q. Do you recall the visit of Mr. Converse to your office? A. Yes, sir.

Q. And you heard him testify here yesterday afternoon? A. Yes, sir.

Q. As to taking some papers from your desk? A. Yes, sir.

Q. At the time he called on you were you at your desk? A. I was in the room, yes, sir.

Q. Had you been opening mail that morning? A. I had been opening mail all morning; I was somewhat behind with my correspondence, and been doing some editorial work.

Q. Were there some unopened letters on your desk? A. Several.

Q. And some letters that you had opened but had no opportunity to read? A. Yes, sir. I had taken quite a number out of the envelopes, but had not looked them over to give them any attention, except to pin the contents together.

Q. Did Mr. Converse take all that correspondence? A. Yes, sir.

Q. At the time that he was there did he ever show you Exhibit 36 and ask you any questions about it? A. No, he did not.

Q. At the time that he was there did you see Exhibit 35 at all in your desk or anywhere else? A. No, I did not.

Mr. Fuller: That is all. Now, if your Honor please, I move that Exhibit 35 be stricken from the record, upon the ground that it appears that none of the defendants had any knowledge of it at all. The affirmative evidence doesn't show anything except its presence in Mr. Robison's desk. That is denied,

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and there is no evidence in the case that any of the other defendants knew anything about it. No evidence in the case that charges Mr. Robison with any responsibility for it at all.

Mr. Oeland: Mr. Rutherford said he got a copy of that through the mail and he was not clear but he thought he might have destroyed it. He didn't know exactly what became of it.

Mr. Fuller: Mr. Rutherford said he got a copy of a letter somewhat similar to this through the mail, but not this. There is no evidence in the case that shows any connection on the part of any of the defendants with any of the statements set forth in Exhibit 35. No evidence whatever.

The Court: The Court would not be justified in striking it out, or any evidence tending to connect any of the defendants. It will go in for what it is worth.

Mr. Fuller: But there is no evidence tending to connect any of the defendants. This conversation that took place between Mr. Robison and Mr. Converse has no bearing—it is not in itself adequate to connect any of the defendants because of the fact of such a conversation, only to the extent of his knowing that this paper was on his desk, that is all. With respect to Mr. Converse, I don't think there is any conversation in evidence respecting Exhibit 35. I think the testimony is that he found Exhibit 35 on his desk. Mr. Converse testified Mr. Robison said this Exhibit 36 was given to him by Mr. Rutherford.

The Court: That evidence would not be a reason why the Court should strike it out.

Mr. Fuller: So far as Robinson is concerned

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and so far as Exhibit 35 is concerned, to which my present motion is addressed, there is no testimony which tends to connect either Mr. Robison or any of the other defendants with any responsibility for the sentiments expressed in that letter. It was put in the case at the last moment and read to the jury the other afternoon.

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Mr. Oeland: And further evidence tends to show that it is identified—here is a list of things to be done in this registration matter and the reasonable inference is that this is one of the items referred to there, because it says note to chairman of local board. It goes ahead and enumerates a lot of things—he says he found them both in Mr. Robinson's desk. Now, he did have some conversation with Mr. Robison about it, but I didn't pursue it.

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Mr. Fuller: It is an unsigned paper. No testimony that anybody ever received it, apparently.

The Court: Does Mr. Robison deny that this was taken from his desk?

Mr. Fuller: He says he never saw it before.

Mr. Oeland: Mr. Rutherford testified he got a letter from some man in Ohio, containing—he would not say that that was the exact instrument, but similar to that. He says he could not recollect what he did with it, but thinks he destroyed it. His testimony was that he got these two papers—were handed him by Mr. Robison, that is his testimony. Mr. Robison told him that this was a list of forms handed him by Mr. Rutherford, and that he hadn't had much of a chance to talk to him. Mr. Robison himself testified that he gave him a list of forms, but Mr. Rutherford said this was not the list.

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The Court: The Court declines to strike it out on the defendants' motion.

Now, the defense, having reopened the case, if you desire to call Mr. Converse you may have a few minutes to get him, if you think it is necessary.

Mr. Fuller: My motion to strike it out is denied?

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The Court: Yes. As long as there is any evidence tending to connect any of the defendants, of course it would be error for the Court to strike it out. It is a question of fact for the jury, and then under the conspiracy count or under the other counts it may be material as to one conspirator and may bind all the others. Under the other counts, one who counsels, aids or assists another, he becomes a principal. So I think it would be manifestly error under the law for the Court to strike this out. How much weight the jury will give to it is a question for them, and not the Court.

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Mr. Fuller: The point I have in mind is that early in the trial and practically up to this instant we were proceeding on the theory, I thought, that objectionable advice to persons or objectionable statements or decisions had been used in some form in order to be binding on the various defendants. So if we find a printed publication in the possession of one of the defendants, but without any evidence what ever of any use being made of that printed publication, the possession of it in and of itself would not make it relevant in this case. Now, the fact with respect to this particular communication, taking Mr. Converse's testimony, is simply, without respect to any conversation between him and Mr. Robison,

first, is simply that he found it upon Mr. Robison's desk, and the first point is that no matter what was in Mr. Robison's desk, if that is all it was doing on his desk, so far as the evidence shows, no proof of use of any kind, no proof of ownership of any kind, but merely the presence on his desk, and that, and that alone—there is nothing in the presence on his desk that can bind any of the defendants except Mr. Robison, so that so far as the other defendants are concerned there is not anything up to that point that can permit that to be put in evidence. That is the contention I make. No publication of it, no use of it, no part claimed in any conspiracy charge, merely a dead thing on a desk, and that is all. 3319 3320

The Court: Supposing the jury should find that that was one act of the conspiracy—it got so far as to get this printed?

Mr. Fuller: They can't find that, can't infer that they had it printed. This is a letter which directs a writing to be prepared for signature for a member of the association. Mr. Converse might have mailed it the night before and received it that morning. I mean it is a surmise, not an inference.

The Court: I deny the motion subject to the exception of Mr. Robison and each of the other defendants. 3321

Mr. Sparks: I think your Honor has ruled that any letter mailed into the association by a person from the outside could not possibly bind any of these defendants. I remember one letter specifically that I objected to and your Honor sustained it.

The Court: I think there is a distinction—

Mr. Sparks: All this purports to be is a

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letter from some person who is within the draft age and who has written that letter to the local board. Now, assuming that he sent a copy of the letter that he wrote to the local board, to the association and that it was on Mr. Robison's desk. That certainly would not bind the defendants with any of the matters alleged in that letter. I don't see the distinction between the case your Honor ruled on and this case, because there is not a particle of evidence that that is not the original letter that came in from the person who wrote it to the local board, so it can't have any probative force, especially in the face of the denial of Mr. Robison that he ever saw it.

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The Court: If there is any evidence in the case tending to connect any of the defendants with it, the Court would be powerless to exclude it. We might have one witness testifying to circumstances connecting a person and four hundred witnesses denying it, nevertheless it is a question for the jury, not the Court.

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Mr. Sparks: Assuming Mr. Robison had said, "Yes, I received this letter. I received that on the same day Mr. Converse came to the office, this came in the mail." Your Honor would exclude it because nothing that people can send into the office is going to bind them in any manner.

The Court: Here is a form, evidently on the face of it it shows it was a form to be used by members of this association who desired to be exempted, setting forth the exact doctrine of the association as testified to by some of the defendants—

Mr. Sparks: No, the letter itself is a personal letter from a registrant to his local board, setting forth his grievances.

The Court: I feel very clearly that it would be error to exclude it. I think it is a question for the jury now.

Mr. Sparks: There is no evidence that the defendants had any hand in the preparation of this. It is purely guesswork, at the most, that we had anything to do with it. We will respectfully except to your Honor's ruling.

WILLIAM E. VAN AMBURGH, one of the defendants, being recalled, further testified: 3326

By Mr. Sparks:

Q. I show you a letter dated February 14, 1918, and ask you whether you received that letter (showing)? A. Yes, sir.

Q. And in reply did you send the original of this letter to the person who signed it (showing)? A. Yes, sir.

Q. And the original was mailed to him at the address given in his letter? A. Yes, sir.

Mr. Sparks: I offer these letters in evidence. Papers referred to marked Defendants' Exhibits P1 and P2. 3327

(Papers read to jury.)

CROSS-EXAMINATION by Mr. Oeland:

Q. Do you know if he had read the seventh volume? A. No, sir.

Q. You knew there were several copies down there at Camp Upton, didn't you? A. No, sir.

Q. You knew that Christie was down there? A. I had heard that he was. I did not know it personally.

3328

William E. Van Amburgh

Q. Didn't Christie use one of your affidavits, too?
 A. I do not know.

Q. You knew when you got that letter that people were making an excuse of your literature to keep out of the draft—

Mr. Sparks: I object to what other people were making an excuse with. This whole trouble in this case is trying to fasten on us what other people were trying to do—

By Mr. Oeland:

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Q. That letter brought home to you that people were using your claim of religion to avoid the draft?
 A. It appears the letter did have that effect.

Q. And at that time you had 1,800 copies of affidavits to be distributed generally throughout the country? A. No, sir; only in response to requests.

Q. If this man had sent a request for an affidavit prior to the sending of this letter you would not send him one? A. No, sir.

Q. Why? A. Unless he had stated a reason that he desired it.

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Q. Didn't you state on the witness stand the other day that you would send them to anybody who asked for them, and you would have given me one? A. I beg your pardon; I didn't catch your thought.

Q. My question was that prior to the receipt of this letter if you had received a request from this man you would have sent him a copy of one of your affidavits?

Objected to as not proper cross-examination.
 The Court: The affidavits are something we have been over pretty fully.

Mr. Oeland: Well, I won't press it, then.

CLARENCE L. CONVERSE, recalled as a witness in behalf of the Government, testified as follows:

By Mr. Oeland:

Q. Mr. Converse, I asked you yesterday and you said you received that from Mr. Robison (showing)?

A. Yes, sir; that is correct.

Q. Who told you that was given to Mr. Robison?

A. He didn't say it was given him. He said it was left for him by Mr. Rutherford.

Q. Didn't say it was given to him? A. But was 3332
left for him by Mr. Rutherford.

Q. You also stated that Exhibit 35—you found it on his desk. I did not ask you if any statement was made by him in reference to that? A. Yes, sir; this was left on his desk and there was a statement made by Mr. Robison at the time.

Q. What did he say?

Mr. Fuller: I object to the statement as against any of the defendants with the exception of the defendant Robison.

The Court: The Court admits it only as against Robison, because this was not an act done in pursuance of the alleged conspiracy. This is a mere narrative. Evidence against Mr. Robison—whatever he said. 3333

The Witness: I found this list and asked Mr. Robison what it was. It was in a bundle in Mr.—

Q. When you say list, refer to the number? A. Exhibit No. 36, and said this was left with the other forms which were rolled up with this by Mr. Rutherford, and I took copies of each one of the papers that were in that part of the pile. I didn't take all of them, but took part of the papers, one of each of

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Clarence L. Converse

the exhibits, with the exception of some other forms or affidavits which were fastened together.

Q. I hand you exhibit—

Mr. Oeland: This doesn't seem to be marked.

I offer this for identification.

Marked Government's Exhibit 37 for identification.

Q. I hand you Exhibit 37 for identification. You just said you didn't take them all? A. Those that were fastened together.

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Q. I ask you where you got that at that time? A. From the desk of Mr. F. H. Robison, 122 Columbia Heights, on March 1, 1918.

Q. How many of those, Exhibit 35 in evidence, were there? A. There were quite a number of them, but I just happened to take the two that were pinned together. I just took samples of each affidavit or each paper that had relation to the draft, or letters that men had sent to the chairman of the different exemption boards.

Mr. Fuller: I move to strike out, "that were to be sent."

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The Witness: I will say addressed.

By the Court:

Q. You mean forms which showed on their face they were for that purpose? A. For that purpose, your Honor.

By Mr. Oeland:

Q. And you got Exhibit 36 and Exhibit 35 and Exhibit 37 for identification at the same time from his desk? A. Yes, sir; I did.

Mr. Oeland: I offer Exhibit 37 in evidence. It is just a set of forms in that schedule.

Mr. Sparks: We object to this upon the ground that it is simply blank forms provided for by the Selective Service Law itself and can form no part of a conspiracy or unlawful act.

Mr. Oeland: We are offering it to identify this transaction, as to all these listed forms there, that is all.

The Court: It may be admitted subject to the exception as to Mr. Robison and all the other defendants.

Mr. Fuller: Upon the further ground that it is not proper rebuttal. We want to examine them more carefully here. We can't see where the paper comes in in any sense in rebuttal.

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Mr. Sparks: On further consideration we will withdraw that objection, that it is not proper rebuttal.

Mr. Oeland: As I understand the rule is that the declaration of Mr. Robison could be used against no one but himself, but that don't exclude this instrument from being used against all the defendants. That is the way I understand it.

The Court: Yes, because that declaration was made after the recital; mere narrative.

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Mr. Fuller: Our objections cover the applicability of the instruments themselves.

The Court: Certainly.

By Mr. Sparks:

Q. Were all these forms attached together, Mr. Converse? A. This lot was attached together.

Q. That is, Exhibit No. 37 were attached together? A. Yes, sir. That pile was attached to another, yes, sir.

Q. Were there any other forms that you took? A. Yes, sir; other forms of affidavits that were not at-

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Clarence L. Converse

tached there. For instance, the affidavit signed by Mr. Rutherford in blank which I turned over.

Q. This exhibit that you have in your hand, is it 36? A. Exhibit 35.

Q. You say there was a whole bunch of those there? A. Yes, sir; other copies of this there.

Q. A whole bunch of them? A. Yes, sir.

Q. Indicate how big a pile? A. I should say a pile about that big in the lot, about an inch thick (witness indicating).

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By Mr. Fuller:

Q. Where did you find that pile resting, what part of the desk? A. Mr. Robison's desk, that particular pile.

Q. That particular pile? A. This was lying on the desk, on the top of the desk.

Q. Among the correspondence that was on the desk, was it? A. At one side of the correspondence. The correspondence was exactly in the center of the desk and this was off to the left.

Q. These forms here you found in a pigeon-hole? A. In a pigeon-hole in the desk, directly in front of the center of the desk.

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Q. The other, Exhibit 36, where did you find that? Did you find them in a pigeon-hole? A. Yes, sir.

Q. You found Exhibit 36 in a pigeon-hole and Exhibit 37 in a pigeon-hole and Exhibit 35 lying on the desk? A. Yes, sir. They were too large to put in a pigeon-hole, rolled up. That is the reason I took them. They were lying there.

Q. These were rolled up in a pigeon-hole? A. Yes, sir.

Q. And the package of these, about how big? A. About an inch thick, lying on the desk.

Q. Too large to go into the pigeon-hole that contained Exhibit 37? A. That is what I would say,

that they were too large. The pigeon-hole wasn't very large.

Defendants' Sur-Rebuttal.

FRED H. ROBISON, one of the defendants, being recalled, testified as follows:

By Mr. Sparks:

Q. You just heard Mr. Converse testify that there was on your desk a big pile of Exhibit 35, which he indicated to be about an inch thick? A. I heard it, yes. 3344

Q. Was there any such pile of those letters, similar letters on your desk? A. There were not.

Q. I said 36, Mr. Robison. I was mistaken and should have said 35. You were referring to that exhibit, were you? A. Yes, sir.

TESTIMONY CLOSED.

The Court: All the motions which were made by the defendants, and each of them, yesterday, may be considered and treated as if they were now renewed, and all the rulings of the Court and all the exceptions taken may be considered and treated as if they were made and taken at this time at the close of all the evidence in the case. 3345

Now you may proceed with the arguments.

Mr. Fuller made a closing statement on behalf of the defendants.

Recess until two p. m.

3346

June 20, 1918. 2:15 P. M.

The Court: Will you take exceptions for all the defendants, Mr. Fuller?

Mr. Fuller: I would like Mr. Sparks to be here. He will be over in a moment.

(After Mr. Sparks' arrival.)

The Court: First, gentlemen, we will take this up in any way to suit counsel best. As long as you have the carbon copy of the charge you may refer to it by paragraphs and pages, and I will hand the copy to the reporter and he can repeat the request to charge and make his record up from that.

3347 Mr. Fuller: Your Honor defines on page 6 the term "military forces of the United States" as including—would it facilitate matters for us to present the idea we had in mind in chambers and then present it—

The Court: Take exception as we go along.

Mr. Fuller: Military forces of the United States as including all male citizens between the ages of twenty-one and thirty-one inclusive, who registered on June 5, 1917. We except to that definition as being too broad. It is too broad to say the registration of citizens brought them within the term "military forces of the United States."

The Court: What do you say you have to have?

3348 Mr. Fuller: Persons inducted into the military service is my conception of the military forces.

The Court: Then they would not constitute a part of the forces until they were actually in the army?

Mr. Fuller: Under the Selective Service, the lapse of the date fixed in a notice by the local board inducts them into service, regardless of where they may be, but until the lapse of that date they are not a part of the military forces, and in fact, the registration does not make them a part of the United States military forces.

The Court: I think the military forces include more than I included in the charge, and you will notice for the purpose of this case—persons in the army; all male citizens between 21 and 31—I think the fact is that the military forces constitute more, I think all those who may volunteer, up to forty-five.

Mr. Oeland: Eighteen to forty-five.

The Court: That is all right. We will let the charge stand in that respect. I think it is more favorable to the defendants than the law really is, but as applied to this case it is not practical to include more, because all the evidence relates to young men between these ages.

Mr. Fuller: On page 8, your charge as to the conspiracy, under the paragraph entitled "As to the proof of a conspiracy," commencing with the second sentence, which defines a conspiracy in this manner:

"A conspiracy can be proved by the proof of facts from which you can fairly and reasonably infer that the defendants had a common object, or by the proof of facts from which you can fairly and reasonably infer that the acts of each defendant were done in pursuance of the common purpose, and calculated to effect that purpose, although such acts may be different in character."

We except to that charge upon the ground that it is missing in the vital and necessary factor with respect to the common object, joint agreement to achieve that common object, acts done in pursuance of the common purpose; it is missing in the necessary factor, the commonly agreed purpose.

The Court: I define what that is in another part. I can't keep the word "agreement" running through each sentence. I think I make that plain.

Mr. Oeland: I think so.

The Court: An agreement between them. I expressly told them one person cannot commit conspiracy.

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3352 Mr. Fuller: At the end of page 8, we except to that part of the charge which charges as follows: "Concurrence of action"—the fourth line from the bottom—"on the material points may be sufficient to enable you to presume concurrence of sentiment and intention, and from this you can very safely find the fact that the conspiracy existed." We except to the words "very safely," believing that while the jury may be at liberty to find that, the words "very safely" implies "it follows necessarily from the existence of the factors just mentioned." And on page 9, on the fifth line, after reciting the pursuance of the same object and performing of one or more acts, the same words occur, the same term. Those factors in your Honor's charge, "you can very safely draw the conclusion that they have engaged in a conspiracy to effect that object,"—we except to the words "very safely" there for the same reason.

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The Court: Yes.

Mr. Fuller: And on page 9, just below the point I just referred to the statement is:

"A good question to ask yourselves is, did the defendants have a common purpose to cause insubordination."

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We except to that as being inadequate, because it does not require the purpose to be agreed upon among themselves.

The Court: They couldn't very well have a common purpose without consenting to it.

Mr. Fuller: I am not quite sure what the meaning of the term "common purpose" is in that connection. On page 11 we except to that portion of your Honor's charge which commences at the foot of page 10 and concludes on page 11, beginning:

"The defendants are criminally responsible for what they knowingly or purposely did, and the want of understanding on their part that they were committing a crime, because they did not actually know the law, does not excuse them, for they are conclusively presumed to know the law, and ignorance of the law excuses no man." 3355

We except so far as it bears on counts one and two, our point being that under one and two for a conspiracy to have been a criminal conspiracy it would be essential that the defendants know of the law condemning the act.

The Court: What next? 3356

Mr. Fuller: On page 11, the next paragraph recites that all the defendants have testified that in saying what they did, then the various things to which they testified, a summary of the evidence. We except to that upon the ground that they did not all testify to that state of facts.

The Court: Who was there that did not? Now, didn't they all testify to that?

Mr. Fuller: Let me try to think.

The Court: You can look that up. If they did not I will change it. I think that was the tendency.

Mr. Fuller: The tendency running through the testimony of all the witnesses, a tendency in that direction, but I do not think they all adopted those views particularly. 3357

The Court: How would it do if I said "testified in substance." That would fix it.

Mr. Fuller: The phrase "they intended, hoped and expected that what they said, wrote and published would be believed, adopted and followed by persons in the military forces as well as others; that the more who believed, adopted and followed their doctrines and advice, the more gratifying it would be to them" I think is an undue extension of the testimony of all

3358 the witnesses, with the possible exception of the witness Woodworth.

The Court: You claim that the tendency of the testimony is not to that effect?

Mr. Fuller: Not to the extent that they intended and hoped and expected what they said, wrote and published would be believed, adopted and followed by persons in the military forces as well as others.

3359 The Court: The fifth paragraph, page 11. We will consider that a little more. You look that up before the charge and try and see if that is not an accurate statement of the testimony. We will reserve that in abeyance, and the Court asks counsel to specify more particularly wherein that is not true.

Mr. Sparks: I join in those exceptions for Mr. Van Amburgh, Rutherford, Martin and Robison.

The Court: All in the same objections. The exceptions taken by Mr. Fuller in behalf of his clients are made and taken in behalf of the defendants represented by Mr. Sparks. If you have not any more in mind you can take yours later. Evidently you want to go through that. And you, Mr. Fuller, may make any further ones you have before the jury goes out.

(The jury returned, Mr. Oeland proceeded to sum up.)

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Charge to the Jury.

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June 20, 1918.

HOWE, J.:

Mr. Foreman, and each of you gentlemen of the jury:

The fact that the defendants have been indicted and placed on trial should not be taken against them.

If you can reconcile the evidence on any reasonable basis consistent with their innocence, you should do so.

The fact that the Court has refused to direct their acquittal should not be taken against them.

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The fact that the Court has refused to direct an stand and testified in his own behalf should not be taken against him.

The law presumes the defendants innocent until they are proven guilty beyond a reasonable doubt. This presumption should be weighed and considered in their behalf throughout the trial and until you reach your final verdict.

You cannot find the defendants guilty unless from all the evidence you believe them guilty beyond a reasonable doubt.

A reasonable doubt does not mean a fancied doubt, but it means an actual doubt based on reason, and which is reasonable in view of all the evidence in the case. It means just what the words themselves imply—beyond a reasonable doubt—a doubt based on reason and which is reasonable in view of all the evidence in the case.

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As to the credibility of witnesses and the weight to be given to their testimony: The credibility of the witnesses and the weight to be given to their testimony are questions entirely for your determination. The law is that you are not bound to give the same weight to the testimony of each witness, but you should give

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Charge

their testimony such weight as you think it is fairly entitled to receive, after considering their appearance on the stand; their candor or lack of candor; their feeling or bias, if any; their interest in the result of the trial, if any, their means of information and the reasonableness of the testimony which they give.

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As to the defendants' testimony: The defendants Joseph F. Rutherford, William E. Van Amourgh, Robert J. Martin, Fred H. Robison, George H. Fisher, Clayton J. Woodworth and A. Hugh MacMillan have testified in their own behalf, and in considering and weighing their testimony, the law is that you should take into consideration their appearance on the stand; their candor or lack of candor; the reasonableness of the testimony which they give; their interest in the result of the trial; and all the other facts and circumstances surrounding them; and give their testimony just such weight as in your judgment it is fairly entitled to receive—no more or no less—but just what it weighs out. You will observe, gentlemen, that the weight to be given to the testimony is entirely for your decision, to believe as much, or as little as you think you ought to.

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As to the character evidence: The defendants George H. Fisher and Clayton J. Woodworth have introduced evidence tending to show that they have general reputations for good character in the vicinities where they have resided. A person's general reputation is evidence tending to show what his character is. The Government does not contend but what these defendants' reputations are good in this regard; however, this is a question of fact for you to decide. If you find that they are persons of good character, this is a fact which you should consider as bearing upon the question of whether they would have been likely to commit the crimes for which they have been indicted. If after considering all the evidence in the

case, including the character evidence, you have a reasonable doubt of their guilt, your verdict should be not guilty, but if you believe, beyond a reasonable doubt, that they committed the crimes charged in the indictment, your verdict should be guilty, notwithstanding the evidence may satisfy you that they are persons of good character.

As to the crimes charged in the indictment: This is an indictment in four counts, charging the defendants with violating a statute of the United States passed by Congress on the 15th day of June, 1917, which provides among other things:

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(1) That it shall be a crime, when the United States is at war, for two or more persons to conspire to wilfully cause insubordination, disloyalty, or refusal of duty in the military forces of the United States, if one or more of them does an act to effect the object of such conspiracy.

(2) That it shall be a crime, when the United States is at war, for two or more persons to conspire to wilfully obstruct the recruiting or enlistment service of the United States, to the injury of that service, or of the United States, if one or more of them does any act to effect the object of such conspiracy.

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(3) That it shall be a crime, when the United States is at war, to wilfully attempt to cause insubordination, disloyalty, or refusal of duty in the military forces of the United States.

(4) That it shall be a crime, when the United States is at war, to wilfully obstruct the recruiting or enlistment service of the United States, to the injury of the service or of the United States.

I will state those again. It is important.

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Charge

(1) That it shall be a crime, when the United States is at war, for two or more persons to conspire to wilfully cause insubordination, disloyalty, or refusal of duty in the military forces of the United States, if one or more of them does an act to effect the object of such conspiracy.

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(2) That it shall be a crime, when the United States is at war, for two or more persons to conspire to wilfully obstruct the recruiting or enlistment service of the United States, to the injury of the service, or of the United States, if one or more of them does any act to effect the object of such conspiracy.

(3) That it shall be a crime, when the United States is at war, to wilfully attempt to cause insubordination, disloyalty, or refusal of duty in the military forces of the United States.

(4) That it shall be a crime, when the United States is at war, to wilfully obstruct the recruiting or enlistment service of the United States, to the injury of the service or of the United States.

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(1) It is a crime to conspire to cause insubordination, disloyalty or refusal of duty. (2) It is a crime to conspire to wilfully obstruct the recruiting or enlistment service of the United States; (3) it is a crime to attempt to cause insubordination, disloyalty or refusal of duty; (4) it is a crime to wilfully obstruct the recruiting or enlistment service of the United States.

The first count charges that the defendants conspired to wilfully cause insubordination, disloyalty and refusal of duty in the military forces of the United States, and that nine different acts were committed by one or more of the defendants to effect the object of such conspiracy.

The second count charges that the defendants conspired to wilfully obstruct the recruiting and enlistment service of the United States, to the injury of the service of the United States, and that nine different acts were done by one or more of the defendants to effect the object of such conspiracy.

I will not take the time to refer to these different acts, the nine different acts, as you will have the indictment before you during your deliberations. You will notice that after the first count, you will find a schedule of nine different acts that it is alleged were done by some one or more of the defendants to effect the object of the conspiracy set out in the first count, and in the second count you will notice the indictment sets out nine different acts that some one or more of the defendants did to effect the object of the conspiracy set forth in the second count.

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The third count charges the defendants wilfully attempted to cause insubordination, disloyalty and refusal of duty in the military forces of the United States. You will notice I used the word "attempted," "wilfully attempted" to cause insubordination, disloyalty and refusal of duty in the military forces of the United States.

The fourth count charges that the defendants wilfully obstructed the recruiting and enlistment service of the United States, to the injury of the service and of the United States.

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I have given you the different crimes set forth in the statute, and these counts are drawn on that statute.

In deciding the case, you should have the Act of Congress which the defendants are charged with violating clearly in mind. It reads as follows:

"Whoever, when the United States is at war, shall wilfully cause or attempt to cause insubordination, disloyalty, or refusal of duty in the military forces of the

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Charge

United States, or shall wilfully obstruct the recruiting or enlistment service of the United States, to the injury of the service or of the United States, shall be punished, etc."

3377 I will read that statute again. You will notice these counts; the first count is for insubordination, and refusal of duty. The second count is for wilfully obstructing the recruiting and enlistment service. The order in which the counts are inserted in the indictment correspond with the crimes which are mentioned in the statute, so if you have that in mind you will see one corresponds with the other. The statute reads:

"Whoever, when the United States is at war, shall wilfully cause or attempt to cause insubordination, disloyalty, or refusal of duty in the military forces of the United States, or shall wilfully obstruct the recruiting or enlistment service of the United States, to the injury of the service or of the United States, shall be punished, etc."

3378 The word "wilfully" as used in the statute is defined to mean "willingly," "purposely," "intentionally," as contradistinguished from "accidentally" or "inadvertently"; "attempt" is defined to mean an endeavor to do something, but falling short of accomplishment; "insubordination" is defined to mean disobedience to the military authority of the United States; "disloyalty" is defined to mean unfaithfulness to the military authority of the United States; "refusal of duty" is defined to mean a refusal to perform a duty imposed by the military authority of the United States; and for the purpose of this case, "the military forces of the United States" include all soldiers in the army and all male citizens, or aliens who have declared their intention to

become citizens—but not alien enemies—between the ages of 21 and 30, inclusive, who registered on June 5, 1917, in obedience to the proclamation of the president. The word "obstruct" is defined to mean active opposition to the recruiting or enlistment service of the United States, although not a single recruit is kept out of the army, or a single enlistment prevented; it means "to hinder," "to embarrass," to make progress in the recruiting or enlistment service more difficult or slow; "to the injury of the service or of the United States," is defined to mean to hinder or delay enlistment in the military or naval service of the United States. Active opposition to the recruiting or enlistment service would tend to injure such service and the United States.

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I think I shall have to read those definitions once more. Unless I notice your disapproval I shall do so. The meaning of the words is important; just as important as the statute itself.

The word "wilfully" as used in the statute is defined to mean "willingly," "purposely," "intentionally," as contradistinguished from "accidentally" or "inadvertently"; "attempt" is defined to mean an endeavor to do something, but falling short of accomplishment; "insubordination" is defined to mean disobedience to the military authority of the United States; "disloyalty" is defined to mean unfaithfulness to the military authority of the United States; "refusal of duty" is defined to mean a refusal to perform a duty imposed by the military authority of the United States; and for the purpose of this case, "the military forces of the United States" include all soldiers in the army and all male citizens, or aliens who have declared their intention to become citizens—but not alien enemies—between the ages of 21 and 30 inclusive, who registered on June 5, 1917, in obedience to the proclamation of the president. The

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word "obstruct" is defined to mean active opposition to the recruiting or enlistment service of the United States, although not a single recruit is kept out of the army, or a single enlistment prevented; it means "to hinder," "to embarrass," to make progress in the recruiting or enlistment service more difficult or slow; "to the injury of the service or of the United States" is defined to mean to hinder or delay enlistment in the military or naval service of the United States. Active opposition to the recruiting or enlistment service would tend to injure such service and the United States.

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As to what is a conspiracy and how it may be proved: Two or more persons agreeing, combining, or confederating together to wilfully cause insubordination, disloyalty or refusal of duty in the military forces of the United States, constitutes the crime, if one of them has taken a step toward carrying out the agreement, combination or confederacy. One person cannot commit a conspiracy, because he cannot agree, combine or confederate with himself. Such agreement, combination or confederacy is the gist of the crime, but the performance of some act to effect its object by at least one of the conspirators is necessary to complete the offense. To illustrate, two or more persons agree together that they will cause insubordination, disloyalty or refusal of duty in the military forces of the United States, by writing, publishing or selling a book. The conspiracy is complete, but there is yet wanting an act to effect its object. One of the parties requests another person to write such a book, or to print such a book, or to sell such a book. This request is an act to effect the object of the conspiracy, and the crime is complete even though such other person absolutely refuses to write such a book, to print such a book, or to sell such a book. Think

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of this crime as an agreement between two or more persons, and some act done by at least one of them toward carrying out the agreement. The crime is committed, although the conspiracy is unsuccessful. Congress made this law very sweeping in its terms, and it was intended to meet conspirators on the very threshold of their preparation.

It is not necessary to show that the conspiracy originated with all the defendants at the same time, for a person may enter into a conspiracy already formed, and if he joins a conspiracy already formed, he is equally guilty and is deemed to be a party to all the acts performed by the other conspirators, if done to effect the object of the conspiracy.

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As to the proof of a conspiracy: As conspiracies are usually secret and difficult to discover, the law is that it is not necessary to prove by direct evidence that the defendants came together and agreed or combined to commit the crime. A conspiracy can be proved by the proof of facts from which you can fairly and reasonably infer that the defendants had a common object, or by the proof of facts from which you can fairly and reasonably infer that the acts of each defendant were done in pursuance of the common purpose, and calculated to effect that purpose, although such acts may be different in character. It should be made to appear that the defendants steadily pursued the same object, whether acting separately or together, by common or different means, all leading to the same result. Concurrence of action on the material points may be sufficient to enable you to presume concurrence of sentiment and intention, and from this you can very safely find the fact that the conspiracy existed. If you find that the defendants pursued the same object, either in the same way or in different ways, one of them performing one or more acts in the transaction and others performing other acts so as to

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complete the transaction, with the intention of accomplishing the object which they were pursuing, you can very safely draw the conclusion that they have engaged in a conspiracy to effect that object. A good question to ask yourselves is, did the defendants have a common purpose to cause insubordination, disloyalty or refusal of duty in the military forces of the United States, or to obstruct the recruiting or enlistment service of the United States, and did they pursue that purpose by common means, whether acting separately or together?

3389 The conspiracy must be shown as an independent fact by evidence which has a tendency to show the agreement between the conspirators, such as I have just pointed out to you. If you find the conspiracy established on that kind of evidence, then the acts and declarations of each of the conspirators while pursuing their common object become the acts and declarations of all of them, for each is personally responsible for the acts and declarations of the others, if performed or made in furtherance of their common object.

3390 As to an act performed to effect the object of the conspiracy: If you find that there was a conspiracy, then you will consider whether any one or more of the nine different acts alleged in the indictment were done by one or more of the defendants to effect the object of the conspiracy, and if you find that such an act was done, the crime is completed—any one or more of the nine acts, the crime is committed.

Ignorance of the law excuses no man. A person charged with crime cannot be heard to say that he did not know the law. Advice of an attorney at law does not constitute a defense to crime. A religious belief does not constitute a defense to crime.

As to the criminal intent required: What the defendants' intentions were is a question of fact for you to decide. It is always a question of fact what a per-

son intended. The rule that a person is presumed to intend the natural and probable consequences of what he knowingly does, is not a presumption of law, but a presumption of fact which you can use, if you desire, in determining what the defendants' intentions were. You can use it if you want to, use it if you think you ought to, use it if you think it will be helpful. It is a presumption of fact not a presumption of law. If you find that they purposely and intentionally said what they did, wrote what they did, or published what they did, in a wilful attempt to cause insubordination, disloyalty or refusal of duty, as defined, or a wilful obstruction to the recruiting or enlistment service, as defined, this would constitute criminal intention, notwithstanding you may also find that the defendants intended to serve God in doing what they did, and were not conscious of doing anything unlawful, because they did not know the law. The defendants are criminally responsible for what they knowingly or purposely did, and the want of understanding on their part that they were committing a crime, because they did not actually know the law, does not excuse them, for they are conclusively presumed to know the law, and ignorance of the law excuses no man.

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With the exception of the defendant, Giovanni De-Cecca, all the defendants have testified that in saying what they did, in writing what they did, and in publishing what they did, they acted willingly and purposely; that they did nothing accidentally or inadvertently; that they intended, hoped and expected that what they said, wrote and published would be believed, adopted and followed by persons in the military forces as well as others; that the more who believed, adopted and followed their doctrines and advice, the more gratifying it would be to them, but notwithstanding their testimony in this regard, they have denied that they intended to cause insubordination, dis-

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Charge

loyalty or refusal of duty in the military forces, or to obstruct the recruiting or enlistment service. As I have said before, what the defendants' intentions were, is a question of fact for you to decide.

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In deciding this question, you should be careful not to mix motive with intention, and you should bear in mind that a person may have more than one motive and more than one intention at the same time. Motive is that which leads to the act; intention qualifies it. A crime may be committed with a good motive and intention; it may be committed with a criminal motive and intention; or it may be committed with both a good and a criminal motive and intention. To illustrate, the father of a large family steals bread for his starving children, and also to deprive the owner of its value. He has two motives and two intentions. One motive and one intention is good; the other motive and intention is criminal, but he is guilty, notwithstanding he has a good motive and intention as well as a criminal motive and intention, for he must not steal at all. So in this case the defendants' motives and intentions to serve God do not excuse them, if you find that they also intended to cause insubordination, disloyalty or refusal of duty in the military forces; or to obstruct the recruiting or enlistment service, to the injury of the service or of the United States.

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The Court takes judicial notice of the fact that the United States has been at war with the Imperial German Government since the 6th day of April, 1917, and you will proceed upon the theory that that fact is established accordingly.

The Constitution of the United States provides that Congress shall make no law respecting an establishment of religions or prohibiting the free exercise thereof or abridging the freedom of speech, but this does not mean that a person may say whatever he pleases without limitation.

The statute which the defendants are charged with violating was passed by Congress on the 15th day of June, 1917. Therefore, they cannot be convicted for anything they may have said prior to that time. If you find that before the statute was passed they combined, confederated or agreed together to willfully cause insubordination, disloyalty or refusal of duty in the military forces, as defined, and to willfully obstruct the recruiting and enlistment service of the United States, as defined, and continued that conspiracy after the statute was passed, criminally intending to accomplish the object thereof, as defined, and that one or more of the defendants committed one or more of the nine different overt acts alleged in each of the conspiracy counts, after the 15th day of June, 1917, then the conspiracy would become and continue unlawful from and after the passage of the Act of Congress.

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Have I made that plain, gentlemen.

As to the evidence in the case: You will have all the books, papers and letters before you during your deliberations, and it is unnecessary for the Court to refer to them in detail or to the exact language in which they are printed or written. Much has been said during the trial as to what the writers meant by the language which they used, but no ambiguity having been pointed out, and the language being plain and simple, it is not necessary for the Court to construe any of the books, papers and letters which have been admitted in evidence, and you will follow the general rule and give the words in which they are written their ordinary meaning. It makes no difference whether the language is original with the defendants or is quoted from some other author; if the defendants selected, printed, sold or otherwise published a book or paper containing it, the use of quotation marks does not relieve them from liability for such use and publication.

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A statute passed by Congress provides—this is another statute I want to call your attention to, gentlemen, a statute passed by Congress, which provides:

“Whoever aids, abets, counsels, induces or procures another person to commit a crime against the United States, is a principal.”

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That is, it is the same as if he committed the act himself. In determining the guilt or innocence of the defendants under the third and fourth counts, you will follow this law, and if you find that any of them did not directly commit the offense charged in these counts, but do find that they aided, abetted, counselled, induced or procured some of the other defendants to commit these offenses, you will find them guilty under these counts.

It is not necessary for you to apply that statute to the conspiracy counts because I have explained that joining a conspiracy, doing anything under a conspiracy has the same real effect.

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As the defendants' evidence does not tend to deny writing or publishing the books, papers and letters, introduced by the Government, two of the principal questions of fact for you to decide are: What were their intentions? And did they combine, confederate or conspire, as alleged in the first and second counts?

You see there is no question here but what they wrote, printed and published these things.

In deciding what their intentions were, and whether they did conspire, it is proper for you to consider and determine what their real motive was. Did they believe the war was wrong and that its prosecution would be a crime? Did they believe it was a violation of Christianity? Did they believe that patriotism was a delusion—in reality, murder, the spirit of the very Devil? Did they believe that there was not a question raised, an issue involved, or a cause at stake which was

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3403

worth the life of one blue jacket on the sea or one khaki coat in the trenches? If you find they did entertain such beliefs, this fact would be important as bearing upon the probabilities of whether they would be likely to have committed the offenses charged.

The Government's evidence tends to show that all the defendants are guilty on each count in the indictment. The defendants' evidence tends to show that they are not guilty.

As to your verdict under the first count: If you find beyond a reasonable doubt that the defendants conspired to willfully cause insubordination, disloyalty or refusal of duty in the military forces of the United States, as alleged in this count, and that one or more of them did an act to effect the object of the conspiracy, you will find them guilty under this count. If you fail to find beyond a reasonable doubt that the defendants conspired to willfully cause insubordination, disloyalty or refusal of duty in the military forces of the United States, as alleged, or that one or more of them did an act to effect the object of the conspiracy, you will find them not guilty under this count.

3404

As to your verdict under the second count: If you find beyond a reasonable doubt that the defendants conspired to wilfully obstruct the recruiting or enlistment service of the United States, to the injury of the service, or of the United States, as alleged in the second count, and that one or more of them did an act to effect the object of the conspiracy, you will find them guilty under this count. If you fail to find beyond a reasonable doubt that the defendants conspired to wilfully obstruct the recruiting or enlistment service of the United States, or that one or more of them did an act to effect the object of the conspiracy, you will find them not guilty under this count.

3405

As to your verdict under the third count: If you find beyond a reasonable doubt that the defendants wilfully attempted to cause insubordination, disloyalty or refusal of duty in the military forces of the United States, as alleged in the third count, you will find them guilty under this count. If you fail to find beyond a reasonable doubt that the defendants wilfully attempted to cause insubordination, disloyalty, or refusal of duty in the military forces of the United States, you will find them not guilty under this count.

3407 And the same as to the fourth count: If you find beyond a reasonable doubt that the defendants wilfully obstructed the recruiting or enlistment service of the United States, to the injury of the service or of the United States, as alleged in the fourth count, you will find them guilty under this count. If you fail to find beyond a reasonable doubt that the defendants wilfully obstructed the recruiting or enlistment service of the United States, to the injury of the United States, you will find them not guilty under this count.

3408 Your verdict will be guilty or not guilty as to each defendant, and on each count, as you find the facts to be. You can find all the defendants guilty or not guilty on all the counts, or guilty on one or more of the counts and not guilty on the others; or you can find any one or more of them guilty or not guilty on the third and fourth counts, and the others not guilty on these counts; but unless you find at least two or more of them guilty on the first or second count, you must find them all not guilty on these counts, for one person cannot commit a conspiracy.

What is your practice here, Mr. Clerk? Do you ask the jury for a verdict on the first count, second count, third count, fourth count, each separately?

The Clerk: Yes.

The Court: The clerk will ask you that.

Perhaps I will state that again—perhaps I am taking too much time as to these details.

Your verdict will be guilty or not guilty as to each defendant, and on each count, as you find the facts to be. You can find all the defendants guilty or not guilty on all the counts, or guilty on one or more of the counts and not guilty on the others; or you can find any one or more of them guilty or not guilty on the third and fourth counts, and the others not guilty on these counts; but unless you find at least two or more of them guilty on the first or second count, you must find them all not guilty on these counts, for one person cannot commit a conspiracy.

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It is your right and duty to decide the facts in issue between the Government and the defendants. Your decision on the facts is final. You are supreme on all questions of fact. The responsibility to the Government and to the defendants now rests entirely with you. Turn your common sense onto the evidence, use the same methods of reasoning here as you use in your own important affairs. Do not think you should use any different logic because you are acting as jurors in court. Lay aside all sympathy and prejudice, if you have any, and decide the case as your reason and your conscience dictate, without regard to the effect of your verdict.

3411

The Court: Now, Mr. Fuller, most of the exceptions have been taken. One or two matters have to be taken up. Any suggestion from the Government?

Mr. Oeland: None.

The Court: You enter, Mr. Reporter, all the exceptions made and taken before the charge was concluded are now renewed at the conclusion of the charge. This was done before in order to save time, gentlemen, but we have one or two other things. You were on page 11 when you called my attention to the

3412

Charge

matter. That was about the tendency of this evidence?

Mr. Fuller: Yes. I want to except on behalf of all the defendants to so much of the charge written on page 11 that charges that all the defendants, with the exception of Giovanni DeCecca have testified, "That they intended, hoped and expected that what they said, wrote and published would be believed, adopted and followed by persons in the military forces as well as by others; that the more who believed, adopted and followed their doctrines and advice, the more gratifying it would be to them."

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The Court: Didn't all the defendants testify to that effect or tendency?

Mr. Fuller: I don't think more than perhaps the defendant Woodworth testified wholly to that effect. I think McMillan testified not at all to any of it. I think Martin testified to none of the part of that paragraph I excepted to, and I think the defendants Rutherford, Van Amburgh and Fisher testified to practically none of that particular portion of the paragraph.

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The Court: Mr. Foreman and Gentlemen of the Jury: It is said by counsel that the Court is in error as to the tendency of the evidence in which I refer to the testimony of the defendants in these words: "With the exception of the defendant, Giovanni DeCecca, all the defendants have testified that in saying what they did, in writing what they did, and in publishing what they did, they acted willingly and purposely; that they did nothing by accident or inadvertently; that they intended, hoped and expected that what they said, wrote and published would be believed, adopted and followed by persons in the military forces as well as by others; that the more who believed, adopted and followed their doctrines and advice, the more gratifying it would be to them." Now, if there is any of the defendants who have not testified to that

effect—of course, I have not undertaken to quote their exact words, I have undertaken to state the tendency of their evidence, the tendency of their testimony—but what they did testify to is a question of fact for you to decide, and if the Court is in error in its statement of the tendency of their evidence in this regard, and you all heard what Mr. Fuller said as to the testimony of the defendants on this subject-matter, you will disregard what the Court said about it. Let me impress upon you in strongest terms that it is for you to decide, it is for you to recollect and recall the testimony. It is your recollection, it is your memory that should control you, and the Court would not refer to this matter if it were not for illustrating the question of law, and if you should get into a disagreement as to what the evidence in this case is, you can come into court and they will read the transcript made, at any time, on any subject. I might ask counsel for the Government what is your recollection about this tendency of the defendants' testimony in this regard?

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Mr. Oeland: That is my recollection with the exception of Mr. Rutherford.

The Court: He stated it both ways, he said it one way and then modified it. But it is for the jury to say as to the testimony which is the fact. Is there anything further?

3417

Mr. Sparks: Just one thing. I wish to take an exception to the last statement on page 10, "The defendants are criminally responsible for what they knowingly or purposely did, and the want of understanding on their part that they were committing a crime, because they did not actually know the law, does not excuse them, for they are conclusively presumed to know the law, and ignorance of the law excuses no man," upon the ground it does not take into consideration, so far as this statute is concerned,

the intent of the defendants specified in that paragraph, the part I quote, and there must be some qualifying statement that they intentionally and wilfully—

The Court: Wilfully and intentionally is pretty prominent all through the charge.

Mr. Sparks: It is not in that sentence.

The Court: You can't use those words in every sentence. If you did we would never get through.

Mr. Fuller: Has your Honor made any—

The Court: There are fifty-four requests to charge here. You have one more, that's fifty-five.

3419 Mr. Fuller: They are all denied?

The Court: A good many are complied with.

Mr. Fuller: Except as contained in your Honor's charge?

The Court: Yes.

Mr. Sparks: Has your Honor noted those you denied?

The Court: No.

Mr. Sparks: Will we have to read these?

3420 The Court: You don't need to take up time to read them all. Treat them as if you had read them all if you like to. One reason the Court is going to decline to comply with your fifty-five requests is that there is too many of them, and it would be in effect writing the charge for the Court if they were complied with. That's one reason. Of course, I have in substance complied with a great many of them, but you may note that each of the defendants has an exception to the refusal of the Court to comply with each one of the fifty-five requests separately, and to the charge as given upon the subject of these requests, so far as the requests are not complied with.

Mr. Sparks: That means complied with in your Honor's charge?

The Court: Yes.

Mr. Fuller: Of course, there are eight defendants, four crimes against each, that's thirty-two crimes.

Defendants' Requests to Charge

3421

Mr. Sparks: We will file these exceptions?

The Court: I will file these with the reporter, and you add this other request and treat that as being done now, and I will file also a transcript of the charge. Did I make any mistake in reading?

Mr. Fuller: It varied a little, but no substantial variation.

The Court: I added to it.

Mr. Fuller: Yes.

3422

Defendants' Requests to Charge.

1. A conspiracy is an unlawful combination or confederacy of two or more persons to commit crime and requires an additional restraint to those provided for the commission of the crime itself. It becomes effective in the accomplishment of its illegal purpose in proportion to the numbers, power and strength of the combination to effect it.

2. Although a conspiracy may be proved by circumstantial evidence, and its exact details need not be formulated in words, there must be a well-defined and clear intent and a well-defined and unmistakable combination. Whether such a conspiracy was formed is not a question of conjecture, supposition or presumption.

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3. The agreement to form a conspiracy must be established beyond a reasonable doubt.

4. The minds of the alleged conspirators must have met in a common purpose, supported by concerted actions, and an express intent must have been formulated wilfully to achieve the unlawful purpose charged.

5. The existence of the alleged conspiracy, and the fact of each defendant's participation in it, are to be determined independently in the case of each defendant, and the presumption of innocence applies to each, as well as to all. Each defendant must be acquitted unless the evidence establishes beyond a reasonable doubt his participation in the conspiracy and his knowledge of its illegal object.

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6. No act of anyone else of which a particular defendant has not been shown to have had knowledge is evidence against such defendant, unless the doer of the act was at the time a co-conspirator.

7. No chance remark in conversation or by letter of any defendant unknown to the other defendants and not made after the formation of the alleged conspiracy, and to effect its object, is evidence against any other defendant.

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8. The conspiracy charged in this case is sought to be proven by circumstantial evidence; and under the law it is the duty of the jury, where a crime is attempted, to be established by circumstantial evidence, to reconcile if possible the conduct of the defendants with a reasonable theory of innocence, and if from the evidence the jury can so reconcile the conduct of the defendant, it is their duty to do so.

9. An unlawful conspiracy, such as here charged, is not a crime unless an overt act has been done to effect its object.

10. The making and existence of a conspiracy cannot be proved alone by the doing of overt acts seemingly calculated to effect its alleged object.

10a. There must be definite and positive proof independent of the overt acts of the formation of the conspiracy.

Defendants' Requests to Charge

3427

11. It is not sufficient for the Government to prove acts or conduct on the part of any defendant which may be reprehensible or even criminal in themselves if such acts were not in pursuance of the conspiracy charged in the indictment. And the reprehensible or even criminal character of any act does not of itself make it evidence of the occurrence of a meeting of defendants' minds in an agreement to obstruct the recruiting and enlistment service.

12. Every citizen has a right, in the absence of intent to obstruct the recruiting or enlistment service, to think, feel and express:

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(a) Disapproval or abhorrence of any law or policy or proposed law or policy, including the Declaration of War, the Conscription Act, and the so-called sedition clauses of the Espionage Act, if they are in hostility to his religious beliefs;

(b) Belief that the self-sacrifice of persons who elect to suffer for freedom of conscience is admirable;

(c) Belief that war is horrible.

(d) That America's entrance into the war was wrong.

3429

13a. It is the constitutional right of every citizen to express his religious belief about the war or the participation of the United States in it, about the desirability of peace, about the merits or demerits of the system of conscription, and about the moral rights or claims of "conscientious objector" to be exempt from conscription.

13b. It is the constitutional right of every citizen to express his religious beliefs even though they are opposed to the opinions or policies of the administration, and even though the expression of such beliefs may unintentionally or indirectly discourage recruit-

ing and enlistment, or cause insubordination, disloyalty or refusal of duty.

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13c. It is likewise the right of any group of citizens associated together for the expression of their religious beliefs in their official papers and books, to express such beliefs in the pages of such official papers and books, by means of articles, drawings or cartoons, and to bring the expression and publication of such beliefs in such papers and book within the offense charged in this indictment, under counts one and two, it must be shown that the intent of such publications was to wilfully obstruct the recruiting or the enlistment service of the United States to the injury of the service or of the United States, or wilfully to cause or attempt to cause insubordination, disloyalty or refusal of duty, in the military or naval forces of the United States and that two or more persons, including each defendant found guilty, had entered into a deliberate conspiracy to effect one of such results.

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14. A conspiracy to wilfully obstruct recruiting or enlistment is not made out by mere proof of a publication by the author of expressions of disapproval of the war and conscription and of the conduct of national affairs by the administration; nor by the publication by any contribution of another author of similar views.

15. No defendant can be convicted under counts one and two unless the jury are satisfied beyond a reasonable doubt that they combined to do an act or acts which if accomplished would contain the essential elements of the substantive offense made punishable by the Espionage Act, namely:

Wilfulness; and

Obstruction of the recruiting or enlistment service of the United States; and

Injury to the service or to the United States; or Wilfullness, and cause or attempt to cause insubordination, disloyalty or refusal of duty, in the military or naval forces of the United States.

16. The word "wilful" as used in Section 3 of the Espionage Act, denotes the will or desire on the part of the doer of an act that it shall have a certain effect or effects—in this case, the effect of obstructing the recruiting or enlistment service and the effect of injuring the service or the United States. It excludes carelessness, or indifference to prohibited or illegal results. It excludes unconsciousness of the possibility or likelihood of prohibited or illegal results. It excludes inattention to the possibility or likelihood of prohibited or illegal results.

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The word "wilfully" means not merely not voluntarily but with a bad purpose.

17. The contents of "The Finished Mystery" and the exhibits put in evidence by the prosecution, afford no evidence of any attempt, effort or intent to obstruct in any manner the recruiting or enlistment service of the United States.

18. The recruiting or enlistment service of the United States cannot be obstructed by the diffusion of sentiments of aversion to the Selective Draft among those subject to the Selective Draft.

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19. The word "obstruct" denotes definite and positive interposition of obstacles.

20. Wilful obstructions of the recruiting or enlistment service involves for the purposes of this case purposeful frustration of the positive endeavors or exertions of the service, either by force or interposition of physical obstacles, or by definitely directed solicitation or inducement not to enlist or be enlisted or recruited. It involves active antagonism.

Defendants' Requests to Charge

21. The jury cannot find any of the defendants guilty of the conspiracy charged unless they find that its objects included acts which would work definite and specific injury to the service or to the United States.

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22. In determining the existence of a conspiracy the jury may consider differences as well as similarities in the points of view and purposes of the defendants and may also consider evidence that other persons, not indicted, entertaining substantially the same views and purposes in regard to all war being wrong, to wit: The Quakers, during the period of the alleged conspiracy.

23. The jury must bear in mind throughout, that their inquiry is as to what was actually in each defendant's mind, and must not allow a theory as to the probability and naturalness of consequence to prevail over direct evidence of actual intent which they find reasonable.

3438

24. If it was the conscious purpose of the defendants to state a religious truth as they saw it; to do this clearly and persuasively in order to lead others to see things in the same way in accordance with what they believed to be true, and that obstruction of the recruiting or enlistment service was not their object, the jury cannot find them guilty.

25. Honest attempts to spread and propagate the beliefs or ideals of individuals, or of their religious organizations, are not evidence of criminality. Honest advocacy of freedom of religious beliefs, in accordance with conscience of the defendants, is not evidence of criminality even when impassioned. It is no evidence of criminality to point out the horrors is no evidence of criminality to point out specifically of war and wherein it is contrary to the Scriptures. It

respects in which the prosecution of the war is believed to be injurious to religious life or a consecrated Christian.

26. It is a question of fact for the jury to determine as to whether the matter printed on pages 247 to 253 of "The Finished Mystery" and that appearing on pages 289, 406, 407 and 469 of "The Finished Mystery," was written, published or distributed wilfully to cause or to attempt to cause, insubordination, disloyalty, mutiny or refusal of duty in the military and naval forces of the United States, or wilfully to obstruct the recruiting or enlistment service of the United States, to the injury of the service or of the United States. If the jury find that it was not wilfully so written, published or distributed, the jury is directed wholly to disregard "The Finished Mystery" and its contents in arriving at a determination with respect to the charge brought against any of the defendants.

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27. If the jury shall find, as they may find from the evidence, that "The Finished Mystery" was written, published and distributed without any intent on the part of the defendants to cause or attempt to cause insubordination, disloyalty or refusal of duty in the military and naval forces of the United States, and without any intent to obstruct the recruiting or enlistment service of the United States to the injury of the service or of the United States, the jury is directed wholly to disregard "The Finished Mystery" and its contents in arriving at a determination with respect to the charge brought against any of the defendants.

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28. If the jury find that any one or more of the defendants performed any act in the writing, publishing or distribution of "The Finished Mystery" in the furtherance of the writing, publication or distribution of which any one or more of the other defendants per-

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Defendants' Requests to Charge

3443

formed some other act, without there having existed or coming into existence between such defendants performing such acts, any joint or mutual intent, by such act or acts, wilfully to cause or attempt to cause insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States, or wilfully to obstruct the recruiting or enlistment service of the United States to the injury of the service or of the United States, the absence of such joint or mutual intent requires that the jury wholly disregard "The Finished Mystery" or its contents in arriving at a determination with respect to the guilt or innocence of such a one, under both charges of conspiracy.

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29. If the jury shall find that any of the defendants entered into any combination, confederation or agreement wilfully to cause or attempt to cause insubordination, disloyalty or refusal of duty in the military or naval forces of the United States, or wilfully to obstruct the recruiting or enlistment service of the United States to the injury of the service or of the United States, and at the time of such combination, confederation or agreement were, and thereafter, or while doing any acts in furtherance of such combination, confederation or agreement, remained, in ignorance of the enactment or existence of the Espionage Act, approved June 15, 1917, and all its provisions, the jury must find such defendants innocent of any conspiracy to violate any of the provisions of said Espionage Act of June 15, 1917.

30. The jury is not authorized to find any defendant guilty upon a charge that he did combine, confederate or agree together with any other defendant or defendants to violate the provisions of section 3 of the Espionage Act, unless the jury finds that such defendant, at the time of such combination, confederation or agreement, had knowledge of, or performed

Defendants' Requests to Charge

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some act in furtherance of, such combination, confederation or agreement, after such defendant had knowledge of some of the provisions of the Espionage Act approved June 15, 1917.

31. The jury is not authorized to find any defendant guilty upon a charge that he did combine, confederate or agree together with any other defendant or defendants to violate the provisions of section 3 of the Espionage Act, unless the jury finds that one or more of the defendants who so combined, confederated or agreed together did an act to effect the object of such combination, confederation or agreement after some one of such defendants had knowledge of some of the provisions of the Espionage Act, approved June 15, 1917.

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32. The jury may not find a defendant guilty upon the charge of conspiracy unless it finds that such defendant combined, confederated or agreed with one or more of the other defendants to do an act known by such defendant at the time of such combination, confederation or agreement to be prohibited by law, or known by such defendant at the time of the doing of such act to be prohibited by law.

33. If any defendant is found by the jury to have combined, confederated or agreed with one or more of the other defendants or other persons, to do an act which the jury believes to have been a harmful act, which act shall be found by the jury not to have been known to the defendant as a violation of law, either at the time of such combination, confederation or agreement, or at the time of the doing of the act, the belief by the jury that such act was harmful is not sufficient basis for a finding by the jury that defendant was guilty of a conspiracy to do such act.

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34. Any defendant who shall be found by the jury not to have entered into any combination, confeder-

tion or agreement with any other person or persons to cause insubordination, disloyalty or refusal of duty in the military or naval forces of the United States or to obstruct the recruiting or enlistment service of the United States, to the injury of the service or of the United States, and who shall be found by the jury not to have performed any act in furtherance of, and with knowledge of, any such agreement, shall be found innocent of the charge of conspiracy as set forth in the first and second counts of the indictment.

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35. There is no presumption as a matter of law, that a person intends the ordinary consequences of his act, but the jury may indulge such a presumption for the purpose of reaching a conclusion upon the question of the intent with which an accused person did an act which is charged to have been wilfully performed.

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36. The writing, publication and distribution of "The Finished Mystery" cannot be found by the jury to have been an act or acts in violation of section 3 of the Espionage Act approved June 15, 1917, unless the jury finds that such writing, publication or distribution was done with the desire on the part of the persons so writing, publishing or distributing said "Finished Mystery," that the writing, publication or distribution thereof should have the effect of causing insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States, or of obstructing the recruiting or enlistment service of the United States.

37. The writing, publication and distribution of "The Finished Mystery" or of any other writings or publications cannot be found by the jury to have been written, published or distributed by any of the defendants in violation of section 3 of the Espionage Act approved June 15, 1917, unless the jury finds that such writing, publication or distribution was done with the

desire on the part of the persons so writing, publishing or distributing said "Finished Mystery" or any other writings or publications, that the writing, publication or distribution thereof should have the effect of causing insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States or of obstructing the recruiting or enlistment service of the United States.

38. If the jury find that "The Finished Mystery" was written, published and distributed without the desire upon the part of any defendant participating in the writing, publication or distribution thereof, that it have the effect of causing insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States or of obstructing the recruiting or enlistment service of the United States, the jury must find the defendants Woodworth, Fisher, MacMillan and Martin not guilty.

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39. If the jury find that "The Finished Mystery" was written, published and distributed without any desire upon the part of any defendant participating therein, that it have the effect of causing insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States or of obstructing the recruiting or enlistment service of the United States, that the letters written by the defendant Rutherford were not written with the desire to attempt to cause insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States, or to obstruct the recruiting or enlistment service of the United States, they must find the defendant Rutherford not guilty.

3453

40. If the jury find that "The Finished Mystery" was written, published and distributed without any desire upon the part of any defendant participating therein, that it have the effect of causing insubordina-

tion, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States or of obstructing the recruiting or enlistment service of the United States, that the letters written by the defendant Van Amburgh were not written with the desire to attempt to cause insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States, or to obstruct the recruiting or enlistment service of the United States, they must find the defendant Van Amburgh not guilty.

41. If the jury find that "The Finished Mystery" was written, published and distributed without any desire upon the part of any defendant participating therein, that it have the effect of causing insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States or of obstructing the recruiting or enlistment service of the United States, and that the letters written by the defendant Robison were not written with the desire to attempt to cause insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States, or to obstruct the recruiting or enlistment service of the United States, they must find the defendant Robison not guilty.

42. If the jury find that "The Finished Mystery" was written, published and distributed without any desire upon the part of any defendant participating therein, that it have the effect of causing insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States or of obstructing the recruiting or enlistment service of the United States, and that the letters written by the defendant DeCecca were not written with the desire to attempt to cause insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States, or to obstruct the recruiting or

enlistment service of the United States, they must find the defendant DeCecca not guilty.

43. The letters written by the defendant Rutherford contained nothing which constituted a violation of section 3 of the Espionage Act, approved June 15, 1917.

44. The letters written by the defendant Van Amburgh contained nothing which constituted a violation of section 3 of the Espionage Act, approved June 15, 1917.

45. The letters written by the defendant Robison contained nothing which constituted a violation of section 3 of the Espionage Act, approved June 15, 1917.

3458

46. The letters written by the defendant DeCecca contained nothing which constituted a violation of section 3 of the Espionage Act, approved June 15, 1917.

47. The Selective Service Law provides that no person who is found to be a member of any well recognized religious sect or organization, organized and existing May 18, 1917, and whose then existing creed or principles forbid its members to participate in war in any form and whose religious convictions are against war or participation therein in accordance with the creed or principles of said religious organization, can be required or compelled to serve in any of the military forces raised under the Selective Service Law.

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48. That any attempt by any person to compel such person, to wit: one who belongs to such religious sect or organization on May 18, 1917, in any way to serve in the military forces being raised under the Selective Service Law, would be illegal, and any person advising such a registrant, having such religious

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Defendants' Requests to Charge

convictions and belonging to such a religious sect or organization, that he is not subject to military duty under the Selective Service Law until the President has defined noncombatant service, cannot be convicted under the Espionage Act of impeding the Selective Service Law or causing insubordination in one in the military service who so believes or belongs.

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49. That if any person, who is a member of any well recognized religious sect or organization, organized and existing May 18, 1917, and whose then existing creed or principles forbid its members to participate in war in any form and whose religious convictions are against war or participation therein in accordance with the creed or principles of said religious organization, has been, contrary to the Selective Service Law, inducted into the service, it would not be a violation of the Espionage Act to advise such person that he need not voluntarily accept noncombatant until the President had defined what noncombatant service was.

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50. That such a registrant had a legal right to seek advice of any person as to his legal rights and status under said Selective Service Law, and that said advice, given to him pursuant to such inquiry, was proper and legal and cannot be made the basis of a conviction under the Espionage Act.

51. If the jury find that any person, writing the letters offered in evidence by the Government requesting advice as to their rights under the Selective Service Law, was, on May 18, 1917, a member of the International Bible Students' Association, and that this association was, on said day, May 18, 1917, a religious sect or organization, organized and existing, and whose then existing creed or principles forbid its members to participate in war in any form, and that the religious convictions of such persons were on said

day, May 18, 1917, against war or participation therein, in accordance with the creed or principles of said International Bible Students' Association, the defendants Rutherford, Van Amburgh, Robison and De-Cicca, who wrote the letters in answer to such inquiries of such persons, had a full legal right to write such communication and cause it to be delivered to the persons writing said letters seeking advice as to their legal rights and status under the Selective Service Law, and nothing contained in said communication was in violation of any law and no conviction of the writer of said letters can be based in any part or degree upon their letters, and their said letters can form no part of the conspiracy as charged in counts one and two or under the third and fourth counts.

3464

52. The jury should not be controlled by their own feelings or convictions as to the truth or falsehood, rightness or wrongness, reasonableness or unreasonableness, expediency or in expediency, of any defendant's views or expressions.

53. In reaching their decision upon the conspiracy charged in this case, the jury should carefully exclude from their minds all influence arising from popular excitement incident to the war, or their own belief in the justness of this country's participation in the war.

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54. The jury must not be influenced by any prejudice or hostility which they may feel towards any defendant on account of any of his opinions, ideals, acts, or expressions in relation to patriotism or loyalty.

55. Advice or suggestion offered to a citizen in answer to his request for advice or suggestion as to his rights, which is intended by the one advising or suggesting to aid such citizen to preserve rights which such person honestly thinks were reserved to such citizen by law, is not an attempt to obstruct the recruiting or enlistment service.

- 3466 The jury retired and returned with a verdict of guilty on all counts as to each defendant.

June 21, 1918, 12:45 P. M.

Same appearances.

Met pursuant to adjournment.

- 3467 Mr. Fuller: If your Honor please, before your Honor proceeds to sentence, I move on behalf of the defendant DeCecca, that the verdict be set aside and a new trial granted, on the ground that the verdict is against the evidence, and against the weight of evidence, on the errors claimed in the admission or exclusion of evidence, to which exception was taken during the progress of the trial, and upon the exceptions taken to the charge and to the refusals to charge as requested, and upon all the exceptions taken during the course of the trial; to the refusal of the Court to withdraw a juror, and upon the exception to the denial of the motion made at the outset of the trial to return certain papers, and upon the exception taken—I withdraw that last.

- 3468 The Court: These motions are denied on each ground, and the defendant DeCecca has an exception to each ruling.

Mr. Fuller: Now, if your Honor please, I desire to move further on behalf of the defendant DeCecca that the verdict be set aside upon a ground which I mention wholly because I understand from the case of Alice against the United States, 155 U. S., that some question might be raised if I do not specify this ground at this time—some question might be raised as to my right to make it on appeal; I move on behalf of the defendant DeCecca that the verdict be set aside and

a new trial granted upon the specific ground that during the course of the trial your Honor's mind exercised such ascendancy in the case as to affect the freedom of the witnesses in giving their testimony—the freedom of the witnesses for the defense—and as also to affect the jury in the disclosure to the jury of your Honor's attitude toward the case, toward the charges and toward the evidence.

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The Court: I will hear you on that. Of course, the counsel for the defendants during the trial attempted to impeach the Attorney General, the Department of Justice, the District Attorney for the Eastern District of New York and his assistants, the Special Attorney-General assigned to take part in this case, all the ministers throughout the land, and I am not surprised now that your attack is directed at the Court, and I will hear you to your heart's content on that question. This has been the most remarkable trial in these regards that I ever read about, or ever heard about. This court has been conscious that it was violating most of the rules of evidence. The Court purposely and intentionally opened this defense wide open in the early days of the trial. The Court was grieved at the treatment it received from one of the defendants' counsel, but when I saw that the Department of Justice, the Attorney-General of the nation, the Intelligence Bureau, all the ministers of the Gospel were treated more severely, why, I began to take a little different attitude, a little different view of the situation. Now, you point out any particular thing that the Court has done which borders upon the suggestion you make in your motion, and I will set aside this verdict at once. It is necessary that these defendants should have a fair and impartial trial, and if that rule has been violated it should be corrected at once, but the Court repeatedly told the jury that they

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3472 should not be influenced by any remark the Court made, or draw any inference from any thing the Court said during the trial upon what their decision should be upon the question of fact.

Mr. Fuller: During the presentation of the evidence by the prosecution two stenographers who it appeared by the evidence were members of the religious association of which the defendants are members, while on the stand received from the Court the intimation that they were intentionally evading the questions of the prosecution and that their conduct either consisted of, or bordered upon, perjury, and in each instance these two witnesses were directed to leave the stand to consider the matter further, and advised that they would have a further opportunity to respond to these questions.

3473 The Court: Wasn't that being exceedingly considerate and indulgent with the witnesses? Wasn't the Court particularly patient and mild in cautioning the witnesses? Now, if the Court neglected to exercise its rights, to do its duty in this regard, why any trial could be stopped and the witnesses could prevent a case being tried, and after two of the stenographers, and I think two young men had persisted in giving their answers that "they did not remember," when it was apparent to everyone the answer was evasive, the Court did commit one of the witnesses for the contempt, and the only regret the Court has in this regard is that it did not act quicker. That is the only criticism that can be made of the Court—that it should have acted before five witnesses had been permitted to carry their contemptuous conduct to the extent they were allowed to carry it. So if that is all you have to say in this regard, the motion is denied.

3474 Mr. Fuller: No, if your Honor please, I am only making this motion, and reviewing these incidents for

the purpose of apprising your Honor, which I understand it to be my duty to do, and all the objections to the trial of the case that counsel for the defendants feel that it will be their duty to urge in review of the record.

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The Court: In addition to what I have said, of course, it might be proper for the Court to state another reason why it is not surprised at this motion. These defendants have succeeded in driving one Judge off the bench here by false affidavit, so that is another reason I am not surprised at this motion. Go on.

Mr. Fuller: Immediately after these two witnesses were withdrawn the witness Hudgings was put upon the stand by the prosecution, and at a point in his testimony in direct-examination he was—

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The Court: Yes.

Mr. Fuller (continuing)—charged with the commission of perjury by the Court and summarily committed for contempt—

The Court: Yes.

Mr. Fuller (continuing)—in the presence of the jury and the District Attorney, as I recall it, was instructed to take the matter before the Grand Jury.

The Court: Certainly, and the jury was expressly told they should not consider that proceeding in considering the case, or deciding the case; that it was not a proceeding against the defendants, it was a proceeding against the witness, and the jury were told in much detail—it was emphasized to the jury—that should not affect their minds in the trial of the case. There was no other way the Court could have dealt with that situation except in open Court, because if it should be said that the Court should shut its eyes and allow the witness to defeat the trial, of course, your program would make the Court powerless. Anything further?

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Mr. Fuller: Yes, sir. The defendants feel, and

Page 1160 in the original transcript is blank.

Page 1161 in the original transcript is blank.

3484 Mr. Fuller: In conjunction with these two elements that I have mentioned we feel—

The Court: Speak a little faster, please.

Mr. Fuller (continuing): We feel that the Court in questioning the witnesses disclosed a difference of mind in respect to the concluding of the witnesses from the words and part of the case, and it had a harmful effect on the jury.

The Court: You have taken your exceptions. I don't agree with you in that regard. The Court is not obliged to sit on the bench like a dummy. The Court has some obligations, some duty to perform. The Court asked very few questions during the trial. All
3485 the witnesses, especially the defendants, were evasive in their testimony, and I think they were purposely evasive in answering, to give a direct answer. What the Court did in that regard, I think is very proper, and you have your exceptions, and I deny the motion on that ground.

Mr. Fuller: I desire to renew, as though made in full, each of these motions on behalf of the defendant Woodworth.

The Court: Yea. Let us see. You appear for De-Cecca?

Mr. Fuller: Yea.

The Court: You made your motion for DeCecca?

3486 Mr. Fuller: Yea.

The Court: These motions made on behalf of De-Cecca are all denied, and exceptions allowed to the defendant on each ruling of the Court.

Mr. Fuller: I make the same motions on behalf of the defendant Woodworth?

The Court: These motions are all denied and exceptions allowed to each ruling of the Court.

Mr. Fuller: I likewise make the same motions on behalf of the defendant Fisher?

The Court: Denied, and exceptions allowed this defendant to each ruling of the Court.

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Mr. Fuller: I make the same motions on behalf of the defendant MacMillan.

The Court: You appear for him?

Mr. Fuller: Yes.

The Court: Denied, and exceptions allowed to this defendant as to each ruling of the Court.

Mr. Fuller: I move on behalf of the defendant De-Cicca, an arrest of judgment on each of the grounds mentioned and on the ground with respect to Counts 1 and 2—

The Court: The motion for arrest of judgment does not urge anything except what appears on the record.

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Mr. Fuller: No, sir. On the ground that the allegations in the indictment in Counts 1 and 2 were insufficient to justify the submission of the case to the jury.

The Court: Denied as to each count, exceptions allowed this defendant.

Mr. Fuller: I make the same motion as to each of the defendants Woodworth, Fisher and MacMillan.

The Court: Denied, and exception is noted for each of these defendants to each ruling of the Court.

Mr. Fuller: On behalf of the defendant Woodworth I further move an arrest of judgment on the ground the Court erred in denying the return of papers on behalf of Woodworth in the trial.

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The Court: That isn't a part of the record in this case. We might as well deny it, and allow an exception. He is entitled to one. I don't know that it is part of the proceedings of this case, part of the record.

Mr. Oeland: I don't know how it can be treated as part of this record, but the Government is willing it should be so treated.

3490 The Court: No, they should have every possible—

Mr. Sparks: On behalf of the defendants Rutherford, Van Amburgh, Martin and Robeson I join in all the motions made by Mr. Fuller, and to the first motion he made upon the further ground there is not sufficient evidence to sustain the indictment against the burden on the prosecution that they must establish the guilt of these defendants beyond reasonable doubt.

The Court: This motion is denied on each ground, as to each defendant, and an exception is allowed each defendant as to each ruling of the Court.

Mr. Oeland: The Government moves for sentence, and as the Court is fully cognizant of all the facts adduced in the trial we make no suggestion, and leave to your Honor's discretion as to the amount of sentence.

The Clerk, at the direction of the Court, asked the defendants if they had anything to say as to why sentence should not be imposed at this time, and the defendants indicated that they had not.

The Court: In the opinion of the Court, the religious propaganda which these defendants have vigorously advocated and spread throughout the nation as well as among our allies, is a greater danger than a division of the German Army. If they had taken guns and swords and joined the German Army, the harm they could have done would have been insignificant compared with the results of their propaganda. A person preaching religion usually has much influence, and if he is sincere, he is all the more effective. This aggravates rather than mitigates the wrong they have done.

Therefore, as the only prudent thing to do with such persons, the Court has concluded that the punishment should be severe. The sentence is that the defendants, Joseph F. Rutherford, William E. Van Amburg,

Robert J. Martin, Fred H. Robison, George H. Fisher, Clayton J. Woodworth and A. Hugh MacMillan, serve a term of twenty years in the Federal Penitentiary at Atlanta, Georgia, on each of the four counts of the indictment, but that the sentences commence and run concurrently; and that they stand committed until the sentence is complied with.

The sentence of the defendant DeCecca is deferred for further consideration, as the Court desires to have his past career investigated.

The Court: At the conclusion of this trial, the Court desires to express its appreciation to counsel, except Mr. Sparks, for the dignified and lawyerlike manner in which they tried the case, to the clerk and his deputies, and the marshal and his deputies, for their many courtesies during the trial. This term is extended, continued in this case, for the purpose of this case, for two months, that is, in order for them to file their record and bill of exceptions.

For the purpose of the proceedings against Hudgings the term is extended for six months.

The defendant, DeCecca, is remanded in the custody of the Marshall pending sentence.

Mr. Fuller: Will your Honor consider an application that the defendants be released on the fixing of bail, pending appeal.

The Court: Yes, I will consider it.

Mr. Fuller: Will your Honor fix bail?

The Court: You make your motion.

Mr. Fuller: I move, if your Honor please, I have here prepared a petition for the allowance of a writ of error and other papers.

The Court: I will allow the writ, of course.

Mr. Fuller: And the writ itself.

The Court: Yes, I will allow that.

Mr. Fuller: And the citation.

The Court: Yes.

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3496 Mr. Fuller: And I understand these papers have theoretically to be filed at the time application for bail is made.

The Court: Yes.

3497 Mr. Fuller: The acts which have been charged against the defendants are all acts which relate to a time considerably past the present time. I think the evidence shows clearly that the defendants are not now engaged in any activities which would during their freedom be objectionable in any way. The status of the defendants, their affiliations, their work, the character of the men they are, show clearly, I think, that they can be produced at any time when wanted by the Court, and we ask, if your Honor please, that pending an early review of the record they be admitted on sufficient bail.

The Court: What is the position of the Government on this?

Mr. Oeland: The Government feels in cases of this kind that the Court should refuse bail pending appeal.

3498 Mr. Fuller: I do not know why it is not permitted in cases of this kind. I know of no reason why in a case of this character that rule is required in the public interest in any way. I thought probably it would be agreed by the prosecution that no vindictive spirit against the Government has existed in the minds of these men.

Mr. Oeland: I cannot say that the Government can point, and has throughout this entire trial, to the extent, and has throughout this entire trial, to the extensive dissemination of what we think is the most dangerous propaganda the Government has to deal with, because of the effectiveness in which it was disseminated. While these people say they have ceased it, yet it is still a matter of doubt whether that

stoppage of it is complete, and whether they would take any advantage of further situations to disseminate it.

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The Court: You regard their conduct as more dangerous than a traitor would be?

Mr. Oeland: Yes, because of its effectiveness.

The Court: Yes, I think it more dangerous, because you can catch a traitor and find out about him, but a person preaching religion is able to continue it longer.

Mr. Oeland: The effects are more instantaneous and hard to reach.

The Court: I am inclined to think the Court should not stay the execution of the sentence, nor admit these defendants to bail.

Mr. Fuller: I say this, if your Honor pleases, so far as the particular acts charged against the defendants are concerned, we will say this, if those were more harmful, dangerous, more perilous to the country than the action of a traitor might be, so far as those acts are concerned they have determined to stop them. So far as the recurrence of anything of the kind at the hands of this organization is concerned I cannot see what greater security the Government could have against the witless activities of the members if the reprehensible situation were stopped, than if these men were stopped. Here is a great home with one hundred or one hundred and fifty people. No matter what we say of its mistaken ideas, it is a great religious enterprise. They have been out of that work for a month.

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The Court: How long?

Mr. Fuller: For a month.

The Court: I think this Court should see to it that they do not return if they are out. See to it they shall not return for that kind of program for several months to come. I cannot see any greater harm this Court can do than admit the defendants to bail, stay the execution of this sentence.

3502 Mr. Oeland: One thing I would like to refer to, that is the letter written by these men that if they were cognizant of the fact they wrote and said anything wrong, not themselves, but in deference to the Government's wishes they will take out pages. I don't know if that will be the attitude of the defendants after this trial to disseminate the knowledge still after, and say there is still nothing wrong about it.

3503 Mr. Fuller: I am very glad Mr. Oeland refers to that incident; notwithstanding they did not know it is wrong, the minute they are apprised of the fact the Government, or somebody, thinks it wrong they stop. There is no danger that I can see in that kind of attitude toward this Government. It expresses the highest kind of citizen when a citizen takes the Government agents judgment and quits his own action because of the judgment of the Government agent's judgment.

The Court: This motion to stay the execution of sentence, and admit these defendants to bail is denied. Anything further, Mr. District Attorney.

The District Attorney: Nothing.

July 10, 1918.

3504 Hon. Harland B. Howe, Presiding.

Appearances:

For the Government: Charles J. Buchner, Esq.,
Special Assistant U. S. Attorney.

For the Defendant: Same appearances.

Mr. Buchner: The Government moves the sentence of Giovanni DeCecca, one of the defendants, who was convicted with the others, but whose sentence was de-

ferred. Your Honor, of course, knows as much about the case as I do, so there is no need of my adding anything more to what is already on record. 3505

The Court: This defendant was hardly the leader, and I think what he did was largely under the direction of some of the other defendants, so I feel his sentence should not be so severe—

Mr. Fuller: I make all the same motions with respect to this defendant as was made with respect to each and all of the other defendants. I make the same motion for the arrest of judgment as was made on behalf of the other defendants,

Motion denied. Exception to the defendant to the denial of each ground of motions. 3506

The Court: I will sentence this defendant to ten years on each of the counts, sentence to run concurrently on each count.

The Court: The motion for a stay of sentence, and likewise the motion to be admitted to bail, I will deny. I think this case justifies the inference that if these defendants were admitted to bail they might continue to do much harm. I think the policy would be a bad one and would undo the good which should result from a trial and conviction of this kind. Only in rare cases am I inclined to stay sentence and admit defendants to bail. This case may take a long time on appeal, and if the Government should reap any benefit from the punishment of this defendant as well as the others, it ought to be speedy; and then too, another reason; I purposely ruled mostly everything in favor of the defendants during the trial. I hardly think there was any error, but still there may be. Most of the rulings on questions of law were in favor of the defendants. I will, therefore, deny the motions. 3507

Exception to the defendant to the denial of each motion.

3508

Government's Exhibit 2A.

(In these exhibits, 2A and 2J, the marked out portions are marked out on the original exhibits.)

Address all Correspondence to the Company, Hammond, Indiana

Private wires from all Departments to Chicago Offices

Telephone Randolph 2390

Chicago Offices
Marquette Building

3509

W. B. CONKEY COMPANY.

Established 1877

Printers Electrotypers Book Manufacturers

General Offices and Works Hammond, Ind.

June 22, 1917.

Watch Tower Bible & Tract Society,

13 Hicks Street,

Brooklyn, New York.

Gentlemen:

3510

We are pleased to accept your order covering the manufacture of your book The Finished Mystery, according to the following specifications:

DESCRIPTION Flexible leather.

No. OF COPIES 1 M 3,000

SIZE TRIMMED 3-7/8 x 6-1/4—open regular.
608

No. OF PAGES 512 and frontispiece.

COMPOSITION None.

PRESSWORK, BODY Carefully made ready and printed in good quality of black ink, suitable for the purpose.

PRESSWORK, FRONTISPIECE Carefully made ready and printed on one side in good quality of black ink.

STOCK, BODY To be White Operty 25x38-25¢ OX Bible paper, basis 28x42-80¢

STOCK FRONTISPIECE To be Wizard Enamel, basis 28x42-80¢

BINDING Sheets to be carefully folded, gathered and thread-sewed in 32-page signatures with frontispiece tipped in. Books to be rounded and backed and cased

3512

We have been in active continuous business under the same name and the same management for 40 consecutive years and have never missed a weekly pay roll.

BINDING (Cont'd) into covers made of red flexible felt covered with heavy black skiver, seal grained. Books to have round corners, cross-grained end sheets, red-undergold edges and ribbon markers. Title to be stamped on backbone in genuine gold.

YOU FURNISH One complete set of patent base plates and the stamping dies for the cover.

PRICE 1M copies \$700.00, or 70¢ per copy. 3M 1380

3513

TERMS Paper stock and presswork to be paid for at 32% 7-8/10 per copy on the tenth of the month following completion of the presswork. Binding to be paid for at 38-2/10 per copy on the tenth of the month following for all books bound and put in stock the previous month.

For prompt payment on the above dates we will allow a discount of 3% for cash.

3514

Government's Exhibit 2A

DELIVERY Promptly in time for your requirements,
F. O. B. Hammond in packing cases.

EXTRAS If we are to furnish Manila cartons, these
will be charged to you as an extra.

REMARKS Owing to the unsettled condition of the
market on materials of all kinds entering into
this contract, the prices herein quoted are based
on the cost of materials today and should there be
an advance when your binding orders are received,
you agree to pay such actual advance. If mate-
rials should reduce in price we will allow you
such reduction. If you prefer, however, all ma-
terials can be purchased at once at prices on
which this contract is made to be paid for by
you within thirty days after receipt in our ware-
house.

3515

All books are to be taken out within a period
of one year from date of contract or settlement
made for same.

Papers mills being unable to furnish exact quanti-
ties of paper ordered, 5% overrun or underrun shall
constitute full delivery and be paid for accordingly.

All contracts are made contingent upon strikes, fires,
accidents or causes beyond our control.

3516

There are no understanding or agreements other
than herein stated.

Your acceptance hereon will constitute a contract
between us.

Yours very truly,
W. B. CONKEY COMPANY,
W. B. CONKEY, Prst.

Accepted June 30, 1917.

Watch Tower Bible & Tract Society

J. F. Rutherford, Pres.

OK. A.M.

Government's Exhibit 3B.

3517

Address all Correspondence to the Company, Hammond, Indiana

Private wires from all Departments to Chicago Offices

Telephone Randolph 2390

Chicago Offices
Marquette Building

W. B. CONKEY COMPANY
Established 1877

Printers Electrotypers Book Manufacturers

3518

General Offices and Works Hammond, Ind.

June 22, 1917.

Watch Tower Bible & Tract Society,
13 Hicks Street,
Brooklyn, New York.

Gentlemen:

We are pleased to accept your order covering the manufacture of your book "The Finished Mystery," according to the following specifications:

3519

DESCRIPTION Flexible cloth bound.

NO. OF COPIES 15,000.

SIZE TRIMMED 3-7/8 x 6-1/4—open regular

NO. OF PAGES 608 512 and frontispiece.

Changes
before
signed
J F R—
W B C

COMPOSITION None.

PRESSWORK, BODY Carefully made ready printed in good quality of black ink suitable for the purpose.

3520

Government's Exhibit 2B

PRESSWORK, FRONTISPIECE Carefully made ready and printed on one side in good quality of black ink.

STOCK, BODY To be white Opacity, basis 25 x 38-25¢

STOCK, FRONTISPIECE to be Urzard enamel, bases 18x42-80¢

BINDING Sheets to be carefully folded, gathered and thread-sewed in 32-page signatures with frontispiece tipped in. Books to be rounded and backed, lined and supered and cases into covers made of red flexible felt covered with Interlaken #85 "CM" pattern cloth. Books to have round corners, red edges, muslin head-bands and black endsheets. Covers to be blinded and title stamped on backbone in imitation gold foil.

3521

We have been in active, continuous business under same name and the same management for 40 consecutive years and have never missed a weekly pay roll.

YOU FURNISH One complete set of patent base printing plates and the stamping dies for the cover.

PRICE 15,000 copies, \$3000.00 or 20¢ per copy.

3270 or, 21 8/10 per copy

3522 **TERMS** Paper stock and presswork to be paid for at 6¢ per copy on the 10th of the month following completion of the presswork. Binding to be paid for at 14¢ per copy on the 10th of the month following for all books bound and put in stock the previous month.

For prompt payment on the above dates we will allow a discount of 3% for cash.

DELIVERY Promptly in time for your requirements
F. O. B. Hammond in packing cases.

EXTRAS If we are to furnish Manila cartons, these will be charged to you as an extra.

REMARKS Owing to the unsettled conditions of the market on materials of all kinds entering into this contract, the prices herein quoted are based on the cost of materials today and should there be an advance when your binding orders are received, you agree to pay such actual advance. If materials should reduce in price we will allow you such reduction. If you prefer, however, all materials can be purchased at once at prices at which this contract is made to be paid for by you within thirty days after receipt in our warehouse.

3524

All books are to be taken out within a period of one year from date of contract or settlement made for same.

Paper mills being unable to furnish exact quantities of paper ordered, 5% overrun or underrun shall constitute full delivery and be paid for accordingly.

All contracts are made contingent upon strikes, fires, accidents or causes beyond our control.

There are no understandings or agreements other than herein stated.

Your acceptance hereon will constitute a contract between us.

3525

Yours very truly,
W. B. CONKEY COMPANY,
W. B. CONKEY, Prest.

Accepted June 30, 1917.

Watch Tower Bible & Tract Society

J. F. Rutherford, Pres.

OK. AM.

MGK:

3526

Government's Exhibit 80.

Address all Correspondence to the Company, Hammond, Indiana

Private wires from all Departments to Chicago Offices

Telephone Randolph 2390

Established 1877

Chicago Offices
Marquette Building

W. B. CONKEY COMPANY.

3527

Printers Electrotypes Book Manufacturers

General Offices and Works Hammond, Ind.

August 11, 1917.

Watch Tower Bible & Tract Society,

13 Hicks Street,

Brooklyn, New York.

Gentlemen:

Entered H. B. W.

3528

We are pleased to accept your order covering the manufacture of your book *The Finished Mystery*, Volume VII, *Studies in the Scriptures*, according to the following specifications:

DESCRIPTION Cloth bound.

NO. OF COPIES 75M

SIZE TRIMMED 4-3/4 x 7-1/8—open regular

NO. OF PAGES 608.

PRESSWORK, BODY Carefully made ready and printed throughout in good quality of black ink.

STOCK, BODY To be furnished by you in size 40 x 61-120#, of which we will require 748 reams.

BINDING Sheets to be carefully folded, gathered and thread-sewed in 32-page signatures. Books to rounded and backed, lined and supered and cased into covers made of same quality and weight binder's board as used on Scripture Studies, and covered with Maroon Interlaken "CM" pattern cloth, size to match as nearly as possible the Winterbottom cloth. Covers to be embossed as heretofore, blinded and stamped in oriental tissue, same amount as shown on Scripture Studies. Books to have plain edges and India Tint end sheets. Each book to be carefully inspected and jacketed with wrapper.

3530

We have been in active, continuous business under the same name and the same management for 40 consecutive years and have never missed a weekly pay roll.

YOU FURNISH All necessary paper stock in size as specified above, one complete set of plates for the body and brass dies for stamping the cover.

PRICE Presswork and binding, 75M copies, per copy \$11-15/20 3531

TERMS Presswork to be paid for at 1-19/20¢ per copy on completion of same, less cash discount of 3% for cash payment of 3% for cash payment on the 10th of the month following completion. Binding to be paid at 9-8/10¢ per copy, less cash discount of 3% for cash payment on the 10th of the month, for all books delivered to bound stock room the previous month.

3532

Government's Exhibit 2C

REMARKS All bound books to be taken out within a period of one year from date of contract, or settlement made for same. 20,000 vols to be bound immediately and balance bound as ordered.

DELIVERY All shipments to be securely packed and forwarded promptly, not later than 48 hours after receipt of your labels, f. o. b. Hammond or Chicago.

3533

Paper mills being unable to furnish exact quantities of paper ordered, 5% overrun or underrun shall constitute full delivery and be paid for accordingly.

All contracts are made contingent upon strikes fires, accidents or causes beyond our control.

There are no understandings or agreements other than herein stated.

Your acceptance hereon will constitute a contract between us.

Very truly yours,

W. B. CONKEY COMPANY

A. E. Wilcox, Treas.

OK

AW.

Accepted 11/Aug., 1917.

3534

Watch Tower Bible & Tract Society

By J. F. Rutherford, Pres.

Government's Exhibit 3D.

3535

Address all Correspondence to the Company, Hammond, Indiana

Private wires from all Departments to Chicago Offices

Telephone Randolph 2390

Chicago Offices
Marquette Building

W. B. CONKEY COMPANY
Established 1877

3536

Printers Electrotypers Book Manufacturers

General Offices and Works Hammond, Ind.

September 29, 1917.

Watch Tower Bible & Tract Society,
13 Hicks Street,
Brooklyn, New York.

Gentlemen:

We are pleased to accept your order covering the manufacture of your book, "The Finished Mystery" Vol. 7 according to the following specifications:

3537

DESCRIPTION Flexible cloth bound
25,000

NO. OF COPIES 40,000

SIZE TRIMMED 3 7/8 x 6 1/4, open regular

NO. OF PAGES 608

COMPOSITION None

PRESSWORK, body Carefully made ready and printed in good quality of black ink suitable for the purpose.

3538

Government's Exhibit 2D

STOCK, BODY White Opacity, basis 25 x 38—25¢

BINDING Sheets to be carefully folded, gathered and thread-sewed in 32-page signatures. Books to be rounded and backed, lined and supered and cased into covers made of red flexible felt covered with Interlaken #85 CM pattern cloth. Books to have round corners, red edges, muslin headbands and black end-sheets. Covers to be blinded and title stamped on backbone in imitation gold foil. (The binding to be the same in all respects to the last edition.)

3539

We have been in active, continuous business under the same name and the same management for 40 consecutive years and have never missed a weekly pay roll.

You FURNISH One complete set of patent base printing plates, and the stamping dies for the cover.
25,000

\$5125.00

PRICE 40,000 copies.....\$8,200.00

TERMS Paper stock and presswork to be paid for at 6 1/2¢ per copy on the tenth of the month following completion of presswork.

3540

BINDING To be paid for at 14¢ per copy on the tenth of the month following for all books bound and put in stock the previous month.

For prompt payment on the above date, we will allow a discount of 3% for cash.

It is understood that these books are to be bound and put in stock as fast as possible.

EXTRA If we are to furnish manila cartons, these will be charged to you as an extra.

Government's Exhibit 2D

3541

DELIVERY All books to be securely packed ready for shipment on receipt of your shipping orders, F. O. B. Hammond or Chicago.

Paper Mills being unable to furnish exact quantities of paper ordered, 5% overrun or under run shall constitute full delivery and be paid for accordingly.

All contracts are made contingent upon strikes, fires, accidents or causes beyond our control.

There are no understandings or agreements other than herein stated.

Your acceptance hereon will constitute a contract between us.

3542

Yours very truly,

W. B. CONKEY COMPANY

W. B. CONKEY.

Accepted Oct. 8, 1917.

Watch Tower Bible & Tract Society

J. F. Rutherford, Pres.

MGK

OK. A.W.

3543

3544

Government's Exhibit 32.

Address all Correspondence to the Company, Hammond, Indiana

Private wires from all Departments to Chicago Offices

Telephone Randolph 2390

Chicago Offices
Marquette Building

W. B. CONKEY COMPANY

Established 1877

Printers Electrotypers Book Manufacturers

3545

General Offices and Works Hammond, Ind.

October 27, 1917.

Watch Tower Bible & Tract Society,

13 Hicks Street,

Brooklyn, New York.

Gentlemen:

We are pleased to accept your order covering the manufacture of your book, "The Finished Mystery," Volume VII, Studies in the Scriptures, according to the following specifications:

3546

DESCRIPTION Cloth bound.

NO. OF COPIES 100,000 copies.

SIZE TRIMMED 4-3/4 x 7-1/8—open regular.

NO. OF PAGES 608 pages.

PRESSWORK, BODY Carefully made ready and printed throughout in good quality of black ink.

STOCK, BODY To be furnished by you in size 40 x 61-120 $\frac{1}{2}$ of which we shall require 998 reams.

BINDING Sheets to be carefull folded, gathered and thread-sewed in 32-page signatures. Books to

be rounded and backed, lined and supered and cased into covers made of same quality and weight Binder's board as used on Scripture Studies, and covered with Maroon Interlaken "CM" pattern cloth, size to match as nearly as possible the Winterbottom cloth. Covers to be embossed as heretofore, blinded and stamped in oriental tissue, same amount as shown on Scripture Studies. Books to have plain edges and India Tint end sheets. Each book to be carefully inspected and jacketed with wrapper.

3548

YOU FURNISH All necessary paper stock in size as specified above, one complete set of plates for the body, and brass dies for stamping the cover.

PRICE Presswork and binding, 100,000 copies, per copy.....\$11-6/10

TERMS Presswork to be paid for at 1-9/10¢ per copy on completion of same, less cash discount of 3% for cash payment on the 10th of the month following completion. Binding to be paid for at 9-7/10¢ per copy, less cash discount of 3% for cash payment on the 10th of the month, for all books delivered to bound stock room the previous month.

3549

REMARKS It is understood that these books are to bound and put in stock as fast as possible subject to your order

DELIVERY All books to be securely packed ready for shipping on receipt of your shipping orders, F. O. B. Hammond or Chicago.

3550

Government's Exhibit 2E

Paper mills being unable to furnish exact quantities of paper ordered, 5% overrun or under run shall constitute full delivery and be paid for accordingly.

All contracts are made contingent upon strikes, fires, accidents or causes beyond our control.

There are no understandings or agreements other than herein stated.

Your acceptance hereon will constitute a contract between us.

Yours very truly,
W. B. CONKEY COMPANY,
W. B. CONKEY, Pres.

3551

Accepted 10/29 1917.

Watch Tower B. & T. Society

J. F. Rutherford, Pres.

MKG:MM

OK. A.W.

3552

Government's Exhibit 2F.**3553**

Address all Correspondence to the Company, Hammond, Indiana

Private wires from all Departments to Chicago Offices

Telephone Randolph 2390

Chicago Offices
Marquette Building

W. B. CONKEY COMPANY

Established 1877

Printers Electrotypes Book Manufacturers **3554**

General Offices and Works Hammond, Ind.

November 17, 1917.

Watch Tower Bible & Tract Society,
13 Hicks Street,
Brooklyn, New York.

Gentlemen:

We are pleased to accept your order covering the manufacture of your book, "The Finished Mystery," Volume VII Studies In The Scriptures, according to the following specifications:

3555

DESCRIPTION Cloth bound.

NO. OF COPIES 100,000 copies.

SIZE TRIMMED 4-3/4 x 7-1/8, open regular.

NO. OF PAGES 608 pages.

PRESSWORK, BODY Carefully made ready and printed throughout in good quality of black ink.

STOCK, BODY To be furnished by you in size 40 x 61 - 120% of which we shall require 998 reams.

3556

Government's Exhibit 2F

BINDING Sheets to be carefully folded, gathered and thread-sewed in 32-page signatures. Books to be rounded and backed, lined and supered and cased into covers made of same quality and weight binder's board as used on Scripture Studies, and covered with Maroon Interlaken "CM" pattern cloth, size to match as nearly as possible the Winterbottom cloth.

3557

We have been in active, continuous business under the same name and under the same management for 40 consecutive years and have never missed a weekly pay-roll.

BINDING (CONT'D) Covers to be embossed as heretofore, blinded and stamped in oriental tissue, same amount as shown on Scripture Studies. Books to have plain edges and India Tint end-sheets. Each book to be carefully inspected and jacketed with wrapper.

YOU FURNISH All necessary paper stock in size as specified above, one complete set of plates for the body, and brass dies for stamping the cover.

3558

PRICE Presswork and binding 100,000 copies, per copy 11-6/10¢

TERMS Presswork to be paid for at 1-9/10¢ per copy on completion of same, less cash discount of 3% for cash payment of the 10th of the month following completion. Binding to be paid for at 9-7/10¢ per copy, less cash discount of 3% for cash payment on the 10th of the month for all books delivered to bound stock room the previous month.

REMARKS It is understood that these books are to be bound and put in stock as fast as possible subject to your order.

Owing to the unsettled condition of the market on materials entering into this contract, the prices herein quoted are based on the costs of today. Should you desire to have only part of the quantity bound now, and wish to maintain the prices quoted on the balance, the materials can be purchased at the prices on which this contract is made, you to pay for same within 30 days after receipt in our warehouse. If you do not care to do this, the cost of materials when your subsequent binding orders are received, you are to pay us such advance or we will allow the reduction from this contract.

3560

DELIVERY All books to be securely packed ready for shipping on receipt of your shipping orders, F. O. B. Hammond or Chicago.

Paper mills being unable to furnish exact quantities of paper ordered, 5% over run or under run shall constitute full delivery and be paid for accordingly.

All contracts are made contingent upon strikes, fires, accidents or causes beyond our control.

There are no understandings or agreements other than herein stated.

Your acceptance will constitute a contract between us. 3561

Yours very truly,

W. B. CONKEY COMPANY

W. B. CONKEY, Pres.

Accepted Nov. 17 1917.

Watch Tower Bible & Tract Society

J. F. Rutherford, Pres.

OK A. W.

MGK.

O.K. P. O. P. \ \

3562

Government's Exhibit 9G.

Address all Correspondence to the
Company, Hammond, Ind.

New York Office.
6078 Metropolitan Bldg.
Telephone Gramercy 569

General Offices
and Mfg. Plant
Hammond, Ind.

W. B. CONKEY COMPANY

Established 1877

Manufacturing Printers, Electrotypers
Book Binders and Publishers.

3563

Chicago Offices, Marquette Building

Telephone Randolph 2390 Private wires from all
departments to Chicago Office.

Hammond, Ind. November 30, 1917.

Watch Tower Bible & Tract Society,
13 Hicks Street,
Brooklyn, New York.

Gentlemen:

3564

We are pleased to accept your order covering the
manufacture of your book, "THE FINISHED
MYSTERY," Volume VII, STUDIES IN THE
SCRIPTURES, according to the following specifica-
tions:

DESCRIPTION Cloth bound.

No. of COPIES 100,000 copies.

SIZE TRADES 4-3/4 x 7-1/8, open regular.

No. of PAGES 608 pages.

PRESSWORK, BODY Carefully made ready and printed
throughout in good quality of black ink.

Government's Exhibit 2G

3565

STOCK, BODY To be furnished by you in size 40x61-120% of which we shall require 998 reams.

BINDING Sheets to be carefully folded, gathered and thread-sewed in 32-page signatures. Books to be rounded and backed, lined and supered and cased into covers made of same quality and weight binder's board as used on **SCRIPTURE STUDIED**, and covered with Maroon Interlaken "CM" pattern cloth, size to match as nearly as possible Winterbottom cloth. Covers to be embossed as heretofore, blinded and stamped in Oriental tissue, same amount as shown on **SCRIPTURE STUDIES**. Books to have plain edges and India Tint end-sheets. Each book to be carefully inspected and jacketed with wrapper.

3566

We have been in active continuous business under the same name and the same management for 40 consecutive years and have never missed a weekly payroll.

YOU FURNISH All necessary paper stock in size as specified above, one complete set of plates for the body, and brass dies for stamping the cover.

PRICE Presswork and binding, 100,000 copies, per copy 11-6/10¢

3567

TERMS Presswork to be paid for at 1-9/10¢ per copy on completion of same, less cash discount of 3% for cash payment of the 10th of the month following completion. Binding to be paid for at 9-7/10¢ per copy, less cash discount of 3% for cash payment on the 10th of the month, for all books delivered to bound stock room the previous month.

Chgd. Jan. 22

3568

Government's Exhibit 2G

REMARKS It is understood that these books are to be bound and put in stock as fast as possible, subject to your order.

3569

Owing to the unsettled condition of the market on materials entering into this contract, the prices herein quoted are based on the costs of today. Should you desire to have only part of the quantity bound now, and wish to maintain the prices quoted on the balance, the materials can be purchased at the prices on which this contract is made, you to pay for same within 30 days after receipt in our warehouse. If you do not care to do this, should there be an advance or reduction in the cost of materials when your subsequent binding orders are received, you are to pay us such advance or we will allow the reduction from this contract.

DELIVERY All books to be securely packed ready for shipping on receipt of your shipping orders, F. O. B. Hammond or Chicago.

3570

Paper mills being unable to furnish exact quantities of paper ordered. 5% over run or under run shall constitute full delivery and be paid for accordingly.

All contracts are made contingent upon strikes, fires, accidents or causes beyond our control.

There are no understandings or agreements other than herein stated.

Your acceptance will constitute a contract between us.

Yours very truly,
W. B. CONKEY COMPANY,
A. E. Wilcox, Treas.

Accepted Dec. 5, 1917.

Watch Tower Bible & Tract Society,
J. F. Rutherford, Pres.

Government's Exhibit 2H.

3571

Address all Correspondence to the Company,
Hammond, Ind.

New York Office
6078 Metropolitan Bldg.
Telephone Gramercy 569

General Offices and
Mfg. Plant Hammond,
Ind.

W. B. CONKEY COMPANY

Established 1877

Manufacturing Printers, Electrotypers, Book Binders
and Publishers

3572

Chicago Offices, Marquette Building

Telephone Randolph 2390 Private wires from all
departments to Chicago Office.

Hammond, Ind.

November 30, 1917.

Watch Tower Bible & Tract Society,
13 Hicks Street,
Brooklyn, New York.

Gentlemen:

We are pleased to accept your order covering the
manufacture of your book "The Finished Mystery"
Vol 7 according to the following specifications: 3573

DESCRIPTION Flexible cloth bound.

NO. OF COPIES 25,000.

SIZE TRIMMED 3-7/8x6-1/4, open regular.

NO. OF PAGES 608 pages.

COMPOSITION None.

PRESSWORK, BODY Carefully made ready and printed
in good quality of black ink suitable for the pur-
pose. \

3574

Government's Exhibit 2H

Stock, Body White Opacity, basis 25x38—25¢

BINDING Sheets to be carefully folded, gathered and thread-sewed in 32-page signatures. Books to be rounded and backed, lined and supered and cased into covers made of red flexible felt covered with Interlaken #85 "CM" pattern cloth. Books to have round corners, red edges, muslin head-bands and black end-sheets. Covers to be blinded and title stamped on backbone in imitation gold foil. (The binding to be the same in all respects to the last edition.)

3575

You Furnish One complete set of patent base printing plates and the stamping dies for the cover.

We have been in active continuous business under the same name and the same management for 40 consecutive years and have never missed a weekly payroll.

Price 25,000 Copies \$5,125.00
or 20-1/2¢ per copy.

Terms Paper stock and presswork to be paid for at 6-1/2¢ per copy on the tenth of the month following completion of presswork. Binding to be paid for at 14¢ per copy on the tenth of the month following for all books bound and put in stock the previous month.

3576

For prompt payment on the above date we will allow a discount of 3% for cash.

It is understood that these books are to be bound and put in stock as fast as possible.

Owing to the unsettled condition of the market on materials entering into this contract, the prices herein quoted are based on the costs of today. Should you desire to have only part of the quantity bound now, and wish to maintain the

prices quoted on the balance, the materials can be purchased at the prices on which this contract is made, you to pay for same within 30 days after receipt in our warehouse. If you do not care to do this, should there be an advance or reduction in the cost of materials when your subsequent binding orders are received, you are to pay us such advance or we will allow the reduction from this contract.

DELIVERY All books to be securely packed ready for shipment on receipt of your shipping orders.
F. O. B. Hammond or Chicago.

3578

EXTRA If we are to furnish manila cartons, these will be charged to you as an extra.

Paper mills being unable to furnish exact quantities of paper ordered, 5% over run or under run shall constitute full delivery and be paid for accordingly.

All contracts are made contingent upon strikes, fires, accidents or cause beyond our control.

There are no understandings or agreements other than herein stated.

Your acceptance hereon will constitute a contract between us.

Yours very truly,

3579

W. B. CONKEY COMPANY,

A. E. WILCOX, Treas.

Accepted Dec. 5, 1917.

Watch Tower Bible & Tract Co.,

J. F. Rutherford.

MGR

OK. P.O.P.

3580

Government's Exhibit 81.

Address all Correspondence to the Company,
Hammond, Ind.

New York Office
6078 Metropolitan Bldg.
Telephone Gramercy 569

General Offices and
Mfg. Plant, Hammond,
Ind.

W. B. CONKEY COMPANY

Established 1877

3581 Manufacturing Printers, Electrotypes, Book Binders
and Publishers

Chicago Offices, Marquette Building

Telephone Randolph 2390 Private wires from all
departments to Chicago Office.

Hammond, Ind.

December 5th, 1917.

Watch Tower Bible & Tract Society,
13 Hicks Street,
Brooklyn, New York.

3582 Gentlemen:

We are pleased to accept your order covering
the manufacture of your book "The Finished
Mystery," volume VII, Studies in the Scriptures, ac-
cording to the following specifications:

DESCRIPTION Cloth bound.

NO. OF COPIES 332,000 copies.

SIZE TRIMMED 4-3/4x7-1/8 open regular.

NO. OF PAGES 608 pages.

PRESSWORK, BODY Carefully made ready and printed throughout in good quality of black ink.

STOCK, BODY To be furnished by you in size 40x61-3253

120% of which we shall require 998 reams.

BINDING Sheets to be carefully folded, gathered and thread-sewed in 32-page signatures. Books to be rounded and backed, lined and supered and cased into covers made of same quality and weight binder's board as used on Scripture Studies, and covered with Maroon Interlaken "CM" pattern cloth, size to match as nearly as possible Winterbottom cloth. Covers to be embossed as heretofore, blinded and stamped in oriental tissue, same amount as shown on **SCRIPTURE STUDIES**. Books to have plain edges and India Tint end-sheets. Each book to be carefully inspected and jacketed with wrapper.

3584

YOU FURNISH All necessary paper stock in size as specified above, one complete set of plates for the body, and brass dies for stamping the cover.

PRICE Presswork and binding, 332,000 copies, per copy 11-6/10¢

3585

We have been in active continuous business under the same name and the same management for 40 consecutive years and have never missed a weekly payroll.

TERMS Presswork to be paid for at 1-9/10¢ per copy on completion of same, less cash discount of 3% for cash payment on the 10th of the month following completion. Binding to be paid for at 9-7/10¢ per copy, less cash discount of 3% for cash payment on the 10th of the month, for all

3586

Government's Exhibit 21

books delivered to bound stock room the previous month.

REMARKS It is understood that these books are to be bound and put in stock as fast as possible, subject to your order.

3587

Owing to the unsettled condition of the market on materials entering into this contract, the prices herein quoted are based on the costs of today. Should you desire to have only part of the quantity bound now, and wish to maintain the prices quoted on the balance, the materials can be purchased at the prices on which this contract is made, you to pay for same within 30 days after receipt in our warehouse. If you do not care to do this, should there be an advance or reduction in the cost of materials when your subsequent binding orders are received, you are to pay us such advance or we will allow the reduction from this contract.

3588

DELIVERY As soon as materials are received by us which will be immediately ordered and crowded for delivery we will start at once on the printing and at the earliest possible moment will deliver 15 M copies each working day when needed and that we will have and keep 50 M in stock-room (warehouse) ahead before we slow down 15 M per day. The intent and purpose being to keep you supplied with Volume VII at all times which we fully realize is so important to you at this time, if 15 M is not delivered daily you to have the option of cancelling this contract. J. F. R. W. B. C. All books to be securely packed ready for shipping on receipt of your shipping orders, F. O. B. Hammond or Chicago.

Paper mills being unable to furnish exact quantities of paper ordered, 5% over run or under run shall constitute full delivery and be paid for accordingly.

All contracts are made contingent upon strikes, fires, accidents or cause beyond our control.

There are no understanding or agreements other than herein stated.

Your acceptance will constitute a contract between us.

Yours very truly,
W. B. CONKEY COMPANY,
W. B. CONKEY,
President.

3590

Accepted Dec. 6, 1917.

Watch Tower Bible & Tract Co.,

J. F. Rutherford, Pres.

3591

3592

Government's Exhibit 27.

Address all Correspondence to the Company, Hammond, Indiana. Private wires from all Departments to Chicago Offices.

Telephone Randolph 2390

Chicago Offices Marquette Building

W. B. CONKEY COMPANY

Established 1877

PRINTERS ELECTROTYPERS BOOK MANUFACTURERS

General Offices and Works

3593

Hammond, Ind.

May 26, 1917.

Watch Tower Bible & Tract Society,

13 Hicks Street,

Brooklyn, New York.

The Finished Mystery Vol. 7 Studies in Scriptures

Entered H. E. W.

Gentlemen:

We are pleased to accept your order covering the manufacture of your book, according to the following specifications:

3594

DESCRIPTION Cloth bound.

NO. OF CONES 50 M and 75 M.

SIZE TRIMMED $4\frac{3}{4} \times 7\frac{1}{8}$ —open regular.

NO. OF PAGES 512 608.

PRESSWORK, BODY Carefully made and printed throughout in good quality of black ink.

STOCK, BODY To be furnished by you in size 40 x

748

61-120 $\frac{1}{2}$ of which we shall require 420 reams.

BINDING Sheets to be carefully folded, gathered and thread-sewed in 32 page signatures. Books to be rounded and backed, lined and supered and

We have been in active, continuous business under the same name and the same management for 40 consecutive years and have never missed a weekly pay roll.

cased into covers made of same quality and weight binder's board as used on **SCRIPTURE STUDIES**, and covered with maroon Interlaken "CM" pattern cloth, size to match as nearly as possible the Winterbottom cloth. Covers to be embossed as heretofore, blinded and stamped in oriental tissue, same amount as shown on **SCRIPTURE STUDIES**. Books to have plain edges and India Tint end sheets. Each book to be carefully inspected and jacketed with wrapper. 3596

YOU FURNISH All copy in good legible condition, the stamping dies for the cover and the stock as mentioned above.

Price Composition per page	\$.50	
Plates " "	.26	3597
Presswork and binding, 50 M copies, per copy,	.10-9/10.	
Presswork and binding, 75 M copies, per copy,	.10-3/4	
	.11-9/20.	

TERMS Composition and plates to be paid for on the tenth of the month following, for all work done the previous month. Presswork to be paid for at 1-7/10¢ per copy in quantities of 75M on completion of same. Binding to be paid for at 2-2/10¢ per copy as books are shipped out. A

Government's Exhibit 21

cash discount of 3% shall be allowed as heretofore for prompt payment on the tenth of the month following delivery of all books shipped the previous month.

REMARKS All books to be taken out within a period of one year from date of contract, or settlement made for same.

DELIVERY All shipments to be securely packed and forwarded promptly, not later than 48 hours after receipt of your labels, f. o. b. Hammond or Chicago.

ALTERATIONS Changes in proof in style or wording from the original copy will be charged for in addition to proposed price at \$1 per hour for hand composition and \$1.50 per hour for machine composition.

Paper mills being unable to furnish exact quantity of paper ordered, 5% overrun or underrun shall constitute full delivery and be paid for accordingly. All contracts are made contingent upon strikes, accidents or causes beyond our control.

There are no understandings or agreements other than herein stated.

Our acceptance hereon will constitute a contract between us.

If 8 pt. is used, price for composition will be 65¢ per page.

Yours very truly,

W. B. CONKEY COMPANY.

W. B. Conkey, Pres.

Printed June 6 1917

Watch Tower Bible & Tract Society
J. F. Rutherford President.

Government's Exhibit 4

3601

96 Pgs. additional will cost 7/10¢ per vol. extra.
To be paid on completion of presswork. 6/30/17.
W. B. CONKEY.

Accepted

J. F. Rutherford,
Pres.

O. K. See my letter 6/12.

Government's Exhibit 4.

3602

WATCH TOWER BIBLE AND TRACT
SOCIETY

13-17 Hicks St.

No. C8716

Brooklyn, N. Y. Dec. 10th 1917

Pay to the order of W. B. Conkey Company

\$25,000.00/xx

Pay \$25,000 and 00 cts. ————— 100 Dollars

W. E. VAN AMBURGH,

Treas.

3603

To The Nassau National Bank

Brooklyn, N. Y.

payable through New York Clearing House.

A. H. MacMillan,
Auditor.

Page 1202 in the original transcript is blank

Page 1203 in the original transcript is blank

3610

Government's Exhibit 5B

Leave all spaces within these double lines blank

.....A1 (2c rec'd
 (Application
 (rec'd
 (Affidavit
 (rec'd
 (.....
 (XXc

 Fee rec'd \$

3611

Exact date of first publication (7) Sat., July 21, 1917. (State here the day, month, and year when the work was placed on sale, sold or publicly distributed)

Send certificate of registration to (8) W. F. Hodg-
 ings, Secy.,

13-17 Hicks Street Brooklyn N. Y.
 (Street) (City) (State)

Name and adress of person sending the fee (9)
 Same.

(Street) (City) (State)

3612 (Please turn this over)

(Reverse side of Exhibit 5B, June 6, 1918)

**AFFIDAVIT (WHICH MUST BE MADE BY
 AN INDIVIDUAL, NOT A CORPORATION,
 AFTER PUBLICATION) OF AMERICAN MAN-
 UFACTURE OF COPYRIGHT BOOK.**

Fill in the required statements to accord with the facts concerning the book named, and draw pen through such statements as are not intended to be made.

Notary's
 Impression seal
 here

State of New York, }
County of Kings, } ss:

I, Wm. F. Hudgings, Secretary of the Peoples Pulpit Association, of 13-17 Hicks St., Brooklyn, N. Y., being duly sworn, depose and says:
do solemnly affirm

(1) That I am the person claiming copyright in the book named herein.

(2) That I am the duly authorized agent or representative residing in the United States of the claimant of copyright in the book named herein.

3614

(3) That I am the printer of the book named herein.

I further depose and say that, as required by the Act of March 4, 1909, the Book Entitled "The Finished Mystery," Vol. VII of the series of "Studies in the Scriptures" of which two copies have been deposited, has been printed by W. B. Conkey Co. (Name of Establishment) at Hammond (City), Indiana (State) from (type) (plates made in the U. S. from type) set within the limits of the United States by W. B. Conkey Co. (Name of establishment), at Hammond (City), Ind. (State) that the printing of the text of said book was completed on 7/17, 1917.

3615

That the said book was published on July 21, 1917; that the binding of the said book has been performed within the limits of the United States by W. B. Con-

3616

Government's Exhibit 5B

key Co. (Name of establishment) at Hammond
(City) Indiana (State).

WM. F. HUDGINGS, Secy.

(Signature of person making affidavit.)

Subscribed and (sworn to before me this 23d day of
(affirmed)

July, 1917.

Edward Stinson,

(Signature of Notary Public)

Notary Public.

(Nov., 1915)

3617

NOTICE: If the date of publication is stated in the affidavit, then the execution of this affidavit Must be Subsequent to the publication of the book. The Notary is requested to see that this blank is properly filled and that there are no variances or serious defects. Please Place Seal at Top.

(Please turn this over)

COPYRIGHT OFFICE OF THE UNITED
STATES OF AMERICA

WASHINGTON, D. C.

3618

I Hereby Certify That The Foregoing Is A True Copy of the Application as the same was received in this Office on the twenty-fourth day of July, 1917, for the registration of the Book entitled "The Finished Mystery"—Vol. VII of the Series of "Studies in the Scriptures," entered in the name of Peoples Pulpit Association, 13-17 Hicks Streets, Brooklyn, N. Y., copyright claimant.

IN WITNESS WHEREOF the seal of this Office has been hereto affixed this twenty-eighth day of May, 1918.

(Signed) THORVALD SOLBERG,
Register of Copyrights.

(Seal.)

Librarian of Congress
Copyright
Office
United States of America.

3620

Government's Exhibit 6.

ADDITIONAL AFFIDAVIT.

Filed Jan. 12/18

State of New York, | to wit:
County of Kings,

I, W. E. VanAmburgh, do solemnly swear that I am the Clerk and Secretary of the American Headquarters of the International Bible Students Association, located at Brooklyn Tabernacle, 13-17 Hicks Street, Brooklyn. I further state that the International Bible Students Association is a well recognized religious organization, and was founded and organized by Pastor Charles T. Russell, who began the publication of its principles in the year 1879; and that it has existed from that date and was so existing and organized on the 18th day of May, 1917; that said Association is now incorporated and has ecclesiastical or church organizations in all the States of the United States of America and throughout Canada and Europe; that the creed or principles of said religious organization existing and in force on and prior to the

3621

18th day of May, 1917, forbids its members to participate in war in any form, and are against war in any form; that it and members of said organization adhere strictly and literally to the teachings of Jesus and the Apostles as set forth in the Bible, to wit: "Thou shalt not kill." "All they that take the sword shall perish with the sword." "No murderer hath eternal life abiding in him." "Follow peace with all men, and holiness, without which no man shall see the Lord." "The Son of Man came not to destroy men's lives, but to save them." "Ye are called to be footstep followers of Jesus." "As we have opportunity let us do good unto all men"; that The Watch Tower, a publication of the Association published twice each month since 1879, and the books of instruction published and furnished to all the members of said Association throughout the world contain statements or principles which are against war in any form. This affiant quotes from the September 1st, 1915, issue of The Watch Tower, wherein is reiterated a statement of the principles of said Association long adhered to by its members concerning war, to wit:

3623

3624 "But some one replies, 'if one were to refuse the uniform and the military service he would be shot.'

"We reply that if the presentation were properly made there might be some kind of exoneration; but if not, would it be any worse to be shot because of loyalty to the Prince of Peace and refusal to disobey His order than to be shot while under the banner of these earthly kings and apparently giving them support and, in appearance at least, compromising the teachings of our Heavenly King? Of the two deaths we would prefer the former—prefer to die because of faithfulness to our Heavenly King. Certainly one dying for his loyalty to the principles of the Lord's

teachings would accomplish far more by his death than would the one dying in the trenches. We cannot tell how great the influence would be for peace, for righteousness, for God, if a few hundred of the Lord's faithful were to follow the course of Shadrack, Meshach and Abednegro, and refuse to bow down to the god of war. Like these noble men they might say, 'Our God is able to deliver us, if He chooses so to do; but if He does not choose to deliver us, that will not alter our course. We will serve Him and follow His direction, come what may.' "

Affiant further states that all of the members of said Association or organization, which number many thousands in the United States, and which are in good standing, believe and strictly adhere to the principles of said Association or organization, which are opposed to war and are against war in any form, and believe that it is preferable to suffer death rather than to willingly take the life of any human being, in war or otherwise.

W. E. VAN AMBURGH,

Address, Brooklyn, N. Y.

Subscribed and sworn to before me
this 18th day of Dec., 1917.

Oscar L. Oberg,

Notary Public,

County of Kings,

State of N. Y.

(Seal.)

3626

3627

EXAMINATION.

W. E. VAN AMBURGH, being duly affirmed in regard claim of Arthur C. Dutcher of Binghamton, Local Board No. 2, testified as follows:

Examined by Mr. Nottingham:

Q. I show you a paper marked additional affidavit and purporting to be signed by W. E. Van Amburgh, secretary of the International Bible Students' Association. Is that your signature? A. Yes, sir.

3629 Q. Mr. Van Amburgh, the headquarters of the International Bible Students' Association is located where? A. London, England.

Q. Where do you live? A. Brooklyn, N. Y.

Q. How long have you resided in Brooklyn? A. Since 1909.

Q. How long have you been secretary of this association? A. About two years.

Q. You say the home office of this association is in England, London? A. Yes, sir.

Q. And it is an English corporation? A. Yes, sir.

Q. Have you the articles of incorporation with you?

3630 A. No, but I can give you their contents.

Q. When was this association incorporated? A. June 30, 1914.

Q. And it was not incorporated in this country? A. No, in London.

Q. Could you send us a copy of the articles of incorporation? A. I can if you will see that I get it back.

Q. It will be returned to you. Have you only one copy? A. That is all.

Q. You have no document which contains these articles? A. Yes, it consists of twenty pages in full, legal form.

Q. And you have only one copy of this? A. That is the only one I have.

Q. Are there any other copies in this country? A. Not that I know of. Our president, Mr. Russell, brought a copy from London for my files after it was incorporated.

Q. Is there no book published relating to the affairs of this association? Any printed book? A. No, sir.

Q. Nothing further than the articles of incorporation? A. No, sir. Nothing except The Watch Tower which is published by the society in Brooklyn.

3632

Q. No book stating the creed of belief of this association? A. No, sir.

Q. Has there ever been any creed or statement of belief formulated? A. We have a statement.

Q. In book form? A. No, in our semi-monthly journal, The Watch Tower.

Q. Have you a copy of the paper here to which you refer? A. Yes, sir (witness hands Mr. Nottingham paper).

Mr. Nottingham (referring to statement in paper):

Q. Well, whose statement is that? A. That statement is by Pastor Russell, written by him.

3633

Q. His name is not signed to it? A. No, sir.

Q. There is nothing here to show that it is his statement? A. Here is a previous copy—

Q. Just answer my question. There is nothing here to show who made the statement? A. No, sir; that was published since his death. Does it not say at the bottom "C. T. Russell"?

Mr. Nottingham: In this copy I have now it says, "Published by C. T. Russell, President."

Q. So there is no organization in this county known as the International Bible Students' Association? A. No legal organization but we have one which covers it. It was organized in London so we could hold property there under a corporate name.

Q. You went to England to hold property and incorporated this company? A. Yes, as a legal corporation.

Q. Could you not have incorporated in this country? A. I presume so.

Q. But you did not attempt to do so? A. No, sir.

3635 Q. Are there any followers in England? A. Yes.

Q. You never had any legal incorporation in this country? A. Not under that name.

Q. And you have no written articles that you can give us of your creed? A. No, just a condensed statement.

Q. They are not published in any book? A. No.

Q. Where are your headquarters in this country? A. Brooklyn, N. Y.

Q. What have you there? A. We have an office building and the work is carried on there.

3636 Q. How do you admit members into this association? A. Any one who takes the Bible as his standard of faith and accepts it as the word of God and conforms his life to its teachings may become a member.

Q. There are no prescribed rules to follow? A. No, each interprets the Bible in his own way and follows its teachings.

Q. No form? A. Very little ceremony.

Q. Can a man become a member by writing to you? A. Not necessary for him to do so.

Q. That is he may become a member without communicating with headquarters at all? A. Yes, if he conforms with the teachings of the Bible.

Q. Is there anything in the way of dues? A. Absolutely nothing.

Q. So that there may be members of this association around the country that you people at headquarters know nothing about? A. That is true.

Q. There is no oath taken? A. No, sir.

Q. No rules, provisions or conditions under which a man binds himself into this association? A. No, sir. We ask him two questions when we give him the right hand of fellowship: "Do you believe that Jesus Christ died for your sins and do you accept him as your Saviour and Redeemer?" "Have you made a full consecration of yourself and all that you have to the Lord and will you endeavor to be guided by his word and his divine teachings as he shall make it clear to you."

3638

Q. After he has answered these questions he is called a member of the association? A. Yes, sir.

Q. He is to be his own interpreter of the scripture? A. Yes, sir.

Q. Are there any rules or regulations in your association which forbids a man going to war? A. No, sir; not if he feels that it is right.

Q. Anything that forbids him to take up arms for the Government? A. No, sir. It is up to his own conscience.

3639

Q. He can be a soldier and still be a member of your association? A. Yes, sir. If he feels that way about it.

Q. You say you have no printed creed, no form as to creed or printed rules? A. Nothing further than I have already shown you and our books of Bible study.

Q. You have stated the creed in those two questions which you ask persons who desire to be members? You have no book of creed as other churches circulate? A. No, sir.

Mr. Nottingham: Anything you would like to say, Mr. Van Amburgh?

Mr. Van Amburgh: I thank you. If you have no objection I would like to leave with you a letter from Mr. Baker, our secretary, which also contains a statement from Provost Marshal General Crowder in regard to Bible students filing claims for exemption.

Mr. Nottingham: You may leave it.

Mr. Van Amburgh: I would like to say further that I take the Bible literally to mean what it says and each member is at liberty to interpret it in his own way.

3641

By Mr. Nottingham:

Q. How does a person cease to become a member?

A. Simply refuses to co-operate with the work. The association is a mutual association of those who are earnestly endeavoring to know and do God's will and preach the gospel as they understand it.

Q. If he wants to leave the association what does he do? A. Simply stops attending the local meetings.

Q. Then you expel him? A. When a man works contrary to the scriptural teachings then we simply avoid him.

3642

Q. How do you know when he is working contrary to the Bible? A. Why we know what the Bible teaches and if he steals or does things which the Bible forbids him to do we know he should not be a member any longer.

Q. Have you means of bringing a complaint? A. It is done by bringing against him the wrong he has done. I go to him first and if he refuses to see me I bring two or three members, and if he refuses then we bring the matter before the local congregation and we do not associate with him.

Q. Now, this affidavit that you made in the case of Dutcher? A. That is a general affidavit that we had made for our members.

Q. Who got it up? A. Mr. Rutherford and myself. I signed it as secretary. It is not made for any individual, just a statement of our belief.

Q. You do not mean that you would not go to war on any occasion? A. Of course I am only answering for myself and want each member to do as their conscience dictates.

Q. What would you do if called upon? A. That would depend. I would understand the Lord's word and do as I thought right. 3644

Q. Suppose a thief broke into your house and attacked your wife and children, what would you do? A. I would defend myself.

Q. Would you take his life to defend yourself? A. No, sir; I would leave it to the Lord to protect me and would rather be killed than kill any man. I believe the Lord means what he says when he says he will take care of us.

Q. If you could only defend yourself by killing him you would not do it? A. No, sir.

Q. You are speaking for yourself? A. Yes, sir; not for any other man. My understanding of the teachings of Christ is that he does not permit the taking of life. 3645

By Mr. MacClary:

Q. These affidavits are furnished indiscriminately to people? A. Yes, sir.

Q. The questionnaires are not presented to you to attach them to? A. No, sir. Simply a statement we got over the signature of the affidavit.

Q. The reason I ask this question is that a rumor has gone forth that they are purchasable? A. No, sir. They have to pay the notary fee, that is all.

Q. These affidavits which might come to the local boards attached to questionnaires, do you know that these men are members of your association? A. Why we assume they are; yes, sir.

Q. Do you know Mr. Dutcher? A. I have met him.

Q. Have you visited Binghamton? A. Yes, sir.

Q. Do you know the date when he became a member? A. No, sir. The only record we keep is of the subscribers of the Watch Tower.

Q. Is every one who receives the paper a member?
3647 A. No, many people send money which we return.

Q. What relationship, if any, does the Watch Tower paper bear to the Watch Tower Tract Society paper? A. 1881 the name was changed to The Watch Tower. The Watch Tower Tract Society was simply a local association.

Q. Do the Watch Tower people and Watch Tower Tract Association own, sell and mortgage real property and isn't it a fact that the Watch Tower Association have owned property in New York State?
A. It is put in that name by some one who gave it to us because we should not own property in New York in that name. We are a foreign corporation.

3648 By Mr. Doolittle:

Q. Do you conform to all of the Bible, the old and new testament? A. Yes. We study the various editions that students of the Bible use.

Q. Your statement covers all parts of the Bible?
A. We take the Bible as the word of God.

Q. How is your association supported? A. By voluntary donations. We have not solicited in over twenty years.

By Mr. Nottingham:

Q. Where do you go to find out who your members are? A. To local associations.

Q. Do you know if they keep a record of their members? A. Some do and some don't. We have thirty elders in New York.

Q. Do you put down as members all subscribers to your paper? A. No. Frequently the head of the family may take the paper and only the other members interested in it, and sometimes some members of the family are members and some not.

3650

By Mr. MacClary:

Q. I understand that your consecration for membership is to make a contract with God to do his will the very best that he knows what his will is. In other words he devotes himself to do his will as prescribed in the Bible? A. Yes, sir.

By Mr. Doolittle:

Q. Do you mean to say that any person who makes such a contract with God becomes a member without doing anything else? A. Yes. He may be away from anybody else and consecrate himself to God or he may write to us that he has seen our publication and it has made him glad to study the Bible and he tells his neighbors and they went to do the same. We put no shackles on anybody. We try to bring everything in harmony with the word of God and believe that he is capable of protecting his people.

3651

By Mr. MacClary:

Q. Do members of your association make claim for deferred classification under your association's advice or of their own free will? A. Our understanding is that Congress made the law which entitled Bible stu-

dents as well as Quakers to file claims for exemption under the draft law and we simply tell our members that they may take advantage of it if they desire but to do as their conscience dictates. We leave it up to them entirely.

Q. So you do not urge your members to make this claim on the ground of religious convictions? A. We suggest they do it if they believe it the right thing to do. We call attention to the privilege. Before the law was passed I talked with Senator James about it. He said he was absolutely against the law of exemption but when it was passed he said he wanted people to take advantage of it.

3653

Q. Have you or any of your association been summoned before any of these district boards? A. I think they have.

By Mr. Fowler:

Q. The purpose of the association is to follow the teachings of the Bible? A. We study the Bible to find out what the law of the Bible is.

By Mr. Shaw:

Q. Anything further to say that has not been covered by the members of the board pertaining to this subject? A. Everything is covered in the Watch Tower which I am leaving with them.

3654

Q. Has ever your society issued directly or indirectly anything instructing your members to claim exemption? A. Not that I know of.

Q. It is not the policy of your association to instruct the members one way or the other regarding this? A. No, sir.

Q. And if the Board rules that your members shall not have the benefit of that exemption your association will abide with that rule and aid the board in carrying out such instructions? A. Yes, sir. We want to be law abiding citizens.

Government's Exhibit 9.

3655

(Letterhead of Watch Tower Bible & Tract Society.)

December 7th, 1917.

Mr. C. J. Woodworth,
432 Bloom St.,
Dunmore, Scranton, Pa.

Dear Brother Woodworth:

Am glad to note the good report of the Seventh Volume study. Please keep it up and the Lord bless you!

The Lord's blessing seems to be upon the work of the Seventh Volume. Today I signed a contract which brings the edition, when finished, up to 850,000 volumes. I hope we will have all these out and need more books within sixty days. I have in mind now a scheme which we are trying to put in operation to organize the whole United States, putting approximately 300 managers in the field and 10,000 assistants to make the drive. We need more strength than we have by about a thousand per cent. I have never felt so inadequate to do the things we find to do as I now feel. I know I have your prayers, and hope you may continue to pray for me.

3656

With much love and best wishes, I beg to remain

3657

Your brother and servant by His grace

(Signed) J. F. RUTHERFORD.

JFR/Z.

Dictated but not read.

3658

Government's Exhibit 10.

Los Angeles, California
February 21, 1918

Mr. C. J. Woodworth,
432 Bloom Street,
Scranton, Pennsylvania.

My dear Brother Woodward:

3659

For some days I have been thinking that the Society should issue a new edition of the Spiritism booklet, eliminating some of the redundant matter now contained therein and replace it with some up-to-date experiences that will open the eyes of the people. I am collecting some data for this. I will thank you to prepare all you can and let me have it as quickly as possible. Kindly send it to me at Brooklyn, as I expect to be returning there shortly.

3660

The Seventh Volume is putting the juice under the hides of the clergy and the gall jades are wincing. Their howls are bringing to them the aid of the civil powers of Canada but the little members of Gideon's band are standing firmly in line and boldly telling the ecclesiastical and civil powers that they will seal their testimony with their blood before they will be driven to silence concerning the message of the Kingdom. Several of them are under arrest, and I have wired them to employ the best lawyers and fight to a finish, and we will stay with them, by the Lord's grace. I also wired several points asking the brethren to give the matter as wide publicity as possible. I enclose you a paper which shows that they have the courage of their convictions.

I know you are happy, as you see your finish, and coming to you. That will be a glorious day! The day is near. Cheer up, old boy; you'll soon get what's

Government's Exhibit 11

3661

Lord bless you richly and keep you. Continue to pray for me. I hope to see you soon.

With much love to you* and Brother Fisher, I beg to remain

Your brother and servant by His grace

(Signed) J. F. RUTHERFORD

JFR-Gx*

Dictated but not read.

Government's Exhibit 11.

3662

Watch Tower Bible and Tract Society

Brooklyn, N. Y., U. S. A.

Oct. 18, '17.

Mr. A. Insberg,

11 North Sq.,

Boston, Mass.

Dear Brother:

Yours to hand.

It will be impossible to get General Bell to write in a letter in your behalf. I had a long interview with General Bell and know how he feels about this matter. He would be glad to help the boys out insofar as he can, but his views are so far different than ours that he will take no steps to help anyone who does not put on the uniform and drill.

3663

The law passed by Congress last May provides that anyone who belongs to a religious organization, the principles of which are against war in any form, shall not be compelled to engage in military service, and then adds another clause that no one shall be exempt from any service that the President may decide

3664

Government's Exhibit 11

3665

is non-combatant. The Government cannot exempt under the law from non-combatant service; the Boards are exempting very few from any kind of service. As to whether you will take non-combatant service or refuse must be determined by yourself. It seems to be a time of special persecution upon those who have the faith once delivered unto the saints. The INTERNATIONAL BIBLE STUDENTS ASSOCIATION comes clearly within the spirit and letter of this law, and any one making proper affidavits should have the benefit of it. In some places the Exemption Boards are recognizing this and exempting the brethren; other places, not.

3666

We know that the present institutions are unrighteous, because controlled by imperfect men. We know that the present order is Babylon, and that the day has come for it to go down in a great time of revolution and anarchy which shall follow the war. We know that the Kingdom of our Lord is near at hand, and having consecrated ourselves to Him, we must pay our allegiance to the Lord. If officers of the present governments disregard the law there is nothing we can do, nor can a consecrated Christian engage in war in any form. You do not state that your application for exemption has been denied; but if so, there is only one of two things you can do—go to war, or refuse to take a part in the conflict in any way and receive the consequences. If you feel that you cannot conscientiously have anything to do with the present war, then you will refuse and let the officials take their own course. You will probably be confined in prison or shot. If confined in prison it may be the Lord's way of giving you an opportunity to witness to the truth. Probably the Lord wants some of His saints in prison for a while to tell the element they meet there that the Kingdom of Heaven is at hand and soon all their suf-

ferings will cease if they turn to righteousness. Have in mind, dear brother, the experiences through which the faithful ones of old passed, as described by St. Paul, Hebrews 11, only that they might have a "better" resurrection. Having this in mind, let us count it all joy to be partakers of the sufferings of Christ.

I assure you, dear brother, that I shall take up this matter with the President, and do all that I can to have the brethren relieved, believing it to be the Lord's will that we take all legal steps possible; but if these fail and (the chances are they will) then be a brave and valiant soldier of Christ. If you are shot because of the stand you take for the Lord, that will be a quick method of entering His glorious presence. If you are confined in prison, write me as often as you can and as long as the Lord gives me opportunity I shall be pleased to do anything I can for you. In any event, may He comfort you and strengthen you and bless you in your own dear heart and give you just such experiences as may be necessary to bring you an abundant entrance into His glorious presence.

3668

We are enclosing two extra forms of affidavits, #143, as you have requested.

With much love and best wishes, I beg to remain

Your brother and servant by His grace,

J. F. RUTHERFORD.

3669

Dictated but not read.

3670

Government's Exhibit 18.

(Article on p. 76, of The Watch Tower, Vol. 38, No. 5, March 1, 1917.)

AN ITALIAN BROTHER BEFORE THE MILITARY TRIBUNAL.

Dear Brethren in Christ:—

I will give you a summary of the trial which took place at Alessandria, and in which our beloved Brother Remigio Cuminetti gave a fine witness of his faith before the Military Tribunal.

3671

Sister Fanny Luigi and myself were present at the trial, and were happy to have the privilege of supporting with our presence our Brother's confession of faith. The President questioned him long without finding him in a fault. Here is the summary in a few words:

President: "Accused, be careful! You are before the Tribunal, and your position is grave. It seems as if you have a desire to laugh at the situation."

Brother Cuminetti: "I cannot change the expression of my face. My heart is so full of joy that my face reflects its cheerfulness."

3672

President: "Why did you not put on the Uniform? And why did you refuse repeatedly to serve the Fatherland?"

Cuminetti: "If it were not for that, I would not be here; for I have committed nothing reprehensible except that I have refused to put on a Uniform which is not suitable for the sons of God, whom I serve. In like manner I also refused to wear the distinguishing mark in the factory in which I was working because that little star represented War and Hate; while the distinguishing mark of the sons of God is Peace, and Love for their neighbor."

President: "Is it true that in the prison of Cuneo you divested yourself of the Uniform and remained only in your underwear?"

Cuminetti: "Yes, it is perfectly true. Three times I was dressed by force; and three times I undressed myself; for I was unwilling to wear a Uniform which to me implied hate for my neighbor. By so doing I did not intend to revolt against doing good to others. On the contrary, if I had one hundred lives, I would give all my blood to the last drop for my neighbor's sake. Give me any kind of work, even the most ignominious and abject, to do and I will very willing adapt myself to it, to do all that I can to uplift others. But NEVER will I give the least help toward doing evil or anything to injure my fellowmen, whom God says I should love and hate."

3674

President: "What schooling have you had?"

Cuminetti: "That is of little importance; I have studied the Bible."

President: "I have asked you what schooling you have had. Answer that which is asked you."

Cuminetti: "I have attended day school for three years, and night school for two years. But I repeat that this is of little importance in comparison to what I have learned in studying the previous Divine Revelation."

3675

President: "Have you passed the military visit?"

Cuminetti: "Yes, I was visited three times."

President: "It is a pity that you have made the acquaintance of some persons [Sisters Luigi and Cerulli] who have started you upon a wrong road. How long have you studied this book which you call the Bible?"

Cuminetti: "It is now six years that I have studied the book and I am sorry that I did not know it long before."

President: "Who teaches you this new religion?"

Cuminetti: "God Himself teaches His own. The Elders of the Bible Students help me to understand it; but God alone opens the eyes of our understanding."

President: "Do you know that your refusal to render obedience is a very grave offense? Are you fully aware of what you are going against?"

Cuminetti: "Yes, yes! I know very well. But I am ready for all that may come, even to being shot down. I cannot break the covenant that I have made with the God of the Bible, whom I adore."

3677

The President then gave the word to the barrister, who answered the President to condemn Cuminetti to four years and four months of solitary confinement.

3678

The advocate who was defending our Brother then arose and gave a wonderful testimony to the exemplary conduct of Cuminetti, who had worked for six consecutive years in the laboratories without having a person say one word against him. The lawyer said: "Remigio Cuminetti has refused to wear the distinguishing mark of war because he already wore the distinguishing mark of the sons of peace, of joy. He has not wished to act contrary to his conscience. If he had worn that distinctive mark, he would have retained his position, been relieved from conscription and able to earn a good living for his family. But he preferred the way of sacrifice, fully conscious of what his refusal would mean to him. Calmly and serenely he withdrew from all. Cuminetti's case is a unique one in Italy; and we ought to admire him. He read in the Bible that God commands, 'Do not kill,' and he does not wish to kill. He is an apostle of Love. He is in full possession of his mental faculties; he is neither silly nor mad. The spirit of the Bible has taken possession of him and makes him act against his personal interests."

The judges went out, and after five minutes returned read the sentence: "For his refusal of obedience to the King and to the laws of the nation Cuminetti is condemned to three years and two months of detention." Cuminetti then rendered thanks with one of his sweetest smiles.

When the President asked him whether he had anything else to add to his defense, he answered: "I would have many things to say on the subject of God's love and on His Plan of Salvation for mankind." The President was annoyed and said, "That is not what I asked. We have already heard much on this subject. I asked whether you have anything to add to your defense." With a smiling face Cuminetti answered, "I repeat what I have said; namely, that I am ready to give my life for my neighbor's sake; but that I will not move a finger to help evil or to injure mankind, even if I myself should be shot."

3680

The trial is over. Sister Fanny and myself had the privilege of talking for about fifteen minutes with our beloved Brother, who has with great courage and strength stood on the side of God. All admired him. Even the judges and his accusers were astonished at his appearance—humble, but at the same time filled with the courage which the sons of light possess because they know to kneel only before the Lord, who is worthy of all adoration and absolute obedience.

3581

At present our beloved Brother is in Gaeta, a beautiful place with sunshine and the charming beauties of nature. He writes letters which exult in love and joy, saying that it does not seem like a prison to him. All certainly love him. Indeed, for the sons of God walls of stone are not a prison; nor are railings and bars a cage. Under iron and stones the innocent soul finds pacific heritage. What is scorn, where there is no fault? Virtue despises the contempt of men; and un-

3682

Government's Exhibit 14

merited punishment is a shining proof for the innocent, and accumulates upon their head a great weight of glory.

Receive, beloved Brethren, and all the beloved ones in the Lord, most affectionate greetings from all of your Italian brethren, who are rejoicing so much in seeing that their deliverance is drawing nigh.

Your Sister in the good fight of faith.

MRS. CLARA CERULLI—*Italy.*

3683

Government's Exhibit 14.**A GOOD SOLDIER OF CHRIST.**

*"Endure hardness as a good soldier of Jesus Christ."—
2 Timothy 2:3.*

The name soldier, applied in the Bible to the followers of Jesus Christ, is an appropriate one; for it implies a special enlistment, or contract for service—a contract in which the life is freely offered a contract in which the individual is under rigid discipline, and in which his will is entirely ignored and the will of the Divine Government, as expressed through the "Captain of our salvation," is absolute Law, to be obeyed at any cost.

3684

Doubtless many Christian soldiers have taken note of the courage and devotion manifested by the soldiers of the various armies of the world, now in conflict. We notice their obedience in going down into the trenches, enduring exposure and all kinds of privation, and, in many cases, receiving wounds or death or seeds of disease. We are amazed at their courage, loyalty, devotion. Doubtless many of the soldiers of the Cross have said, as they compared experiences, "If these

men, fighting for they know not what, receiving a small wage, very plain food, and often very uncomfortable conditions every way, are so loyal, 'what manner of persons ought we to be' who have enlisted under the banner of the Lord, pledging ourselves to faithfulness, 'even unto death'? What manner of persons ought we to be, after receiving such large rewards of Divine care, blessing, comfort and peace in the present life, and having through Christ such a glorious anticipation in respect to the future, if we are faithful? What manner of persons ought we to be—how zealous, how devoted, how loyal, how self-sacrificing! If others can renounce their wills and obey orders, the purport of which they do not understand, how ready should we be to accept the Message of our Captain unquestioningly, regardless of our knowledge of eventualities!"

3686

And what a glorious Cause is ours! If we lay down our lives in following our Captain's lead, it is for the good of others. With our Master we die that others may live, we endure that others may have joy and rejoicing through the knowledge of our God and His glorious coming Kingdom. How rich is our pay—in the present life the peace of God, passing all understanding, and the assurance that all things shall work together for our good and that every sorrow, every tear, will result in "a far more exceeding and eternal weight of glory" in the life to come—joint heirship with our Master in His Kingdom of a thousand years and in the eternal glory of Ages to come!—2 Cor. 4:13-18.

3687

Quite in Contrast.

In contrast, note the description of a soldier of the present time, by the trenchant pen of Jack London, the

novelist. Under the caption, "A GOOD SOLDIER," he writes:—

3689 'Young man, the lowest aim of your life is to be a good soldier. The good soldier never tries to distinguish right from wrong. He never thinks; never reasons; he only obeys. If he is ordered to fire on his fellow citizens, on his friends, on his neighbors, on his relatives, he obeys without hesitation. If he is ordered to fire down a crowded street when the poor are clamoring for bread, he obeys, and sees the gray hairs of age stained with red and the lifetime gushing from the breasts of women, feeling neither remorse nor sympathy. If he is ordered off as one of a firing squad to execute a hero or benefactor, he fires without hesitation, thought he knows the bullet will pierce the noblest heart that ever beat in human breast.

"A good soldier is a blind, heartless, soulless, murderous machine. He is not a man. He is not even a brute, for brutes only kill in self-defense. All that is human in him, all that is divine in him, all that constitutes the man, has been sworn away when he took the enlistment oath. His mind, conscience, eye, his very soul, are in the keeping of his officer.

3690 "No man can fall lower than a soldier—it is a depth beneath which we cannot go."

Government's Exhibit 15A.

3691

Wisdom from above; the noblest science; the best instructor.

**INTERNATIONAL BIBLE STUDENTS
ASSOCIATION.**

Unsectarian
Inter-Denominational
Christian
Names enrolled in Heaven
Heb. 12.23

One Lord, One
Faith, One Baptism,
One God
And Father Over All
Eph. 4:5 & 6.

3692

L. J. Towne

490 Champlain Akron O 9/26

Dear Bro. Rutherford—

Pardon me for taking your time—our Son J. J. Towne Jr has been drafted— In talking to Bro Ernest Hooper of Cleve he advised writing you and told of a Bro Harold Butman in Cal— that you wrote an affidavit for him stating he would prefer being shot down that go into the non combattant or any other part of the army— Kindly advise and send the form of affidavit necessary if you will— The Local board turned the claim for exemption as a member of the I. B. S. A. down and referred him to the District Board we had Bro Van Amburghs affidavit filed with his claim for exemption or discharge with the local board, which was sent to the district board in Canton by the local board here— Lou has ten days in which to file any additional claims concerning the matter— and is firmly standing for the *Truth* as taught by our Lord and Bro Russell—an early reply will be very much appreciated—

3693

As ever your Bro by His Grace

L. J. TOWNE

3694

Government's Exhibit 15B.

September 27, 1917.

Mr. L. J. Towne,
490 Champlain Street,
Akron, Ohio.

Dear Brother Towne:

Your Special Delivery letter addressed to Brother Rutherford, reached us this morning. Brother Rutherford is at present in Des Moines, Iowa, and we doubt if we can reach him ere he leaves there.

3695

We have no further suggestion that we can make except that Brother Rutherford has suggested that in cases of necessity, the brethren refuse to respond to the call and if necessary submit to arrest. He has the matter of the brethren very deeply in mind and has plans underway for bringing it to the attention of the President if possible. In the meantime we know of no further action that can be taken. We call to mind the Apostle's suggestion that "all things work together for good to them that love God, to those who are called according to his purpose." Let us to comfort ourselves with those blessed promises. May His grace be with you dear Brother.

3696

With much Christian love,
Yours in the service of our Redeemer.

MAR*V.

Government's Exhibit 16A.

3697

PAUL L. DONDORE

439 West Oley Street,

Reading, Pa.

Sept. 26, 1917.

W. T. B. & T. Society.**Dear Brethren:**

I have received notice that the District Board has denied or rejected my claims for exemption. I shall now appeal to the President, Mr. W. Wilson, for exemption as provided in their laws of rules and regulations.

3698

If you think it will do any good you may make out a statement that I passed the v. D. M. questions. I will send it to the President and also another affidavit which I will prepare this morning.

There were sent to our late Secretary of the Reading Church, Bro. Albert Deysher, six names, including my own, who passed the 85% mark. The letter was written to Bro. Deysher Dec. 19th, 1916.

I may have to go to the detention camp. I have determined to obey the Lord's will concerning me: which is, Not to take, under any consideration, any service which helps the war—combatant or non-combatant. If War is wrong, than the MEANS which are used to carry on war are wrong too.

3699

I have just now received a card telling me to hold myself in readiness should they call me any time.

I will take any service which is for the general welfare of the people, as farm service.

If a notice is sent to me saying that I must go to the detention camp should I recognize the notice, and go, or not obey it, and let them come after me, no matter if they put me in jail.

3700

Government's Exhibit 16B

I am not worrying I have put myself and all on the altar. I will trust in God and my dear Redeemer though he permit man to slay me. Remember in your prayers all under sore trial, my father and mother in the flesh who have also consecrated.

With Loving Christian Greeting.

PAUL L. DONDORE

P. S. Please send me 1/2 dozen sets of v. D. M. questions, I know some who want them.

3701

Government's Exhibit 16B.

September 28, 1917.

Mr. Paul L. Dondor,
439 W. Clay Street,
Reading, Pa.

Dear Brother in Christ:

Your letter of the 26th is with us and carefully noted.

3702

We surely sympathize with you in your trials and yet call to mind the history of the Lord's people in many instances in the past where other severe trials resulted in the very great blessings, because they were loyal to the Lord. We have no doubt that His loving hand is overruling and guiding in every instance and that the blessing will accrue to every one who his loyalty and obedience to the Lord's commands.

We think your decision to go as a prisoner rather than as a soldier will be the proper one. Brother Rutherford is taking the matter in hand and upon his return next week will endeavor to obtain definite in-

Government's Exhibit 17A

3703

formation by which to be able to gauge future action.
In the meantime we patiently wait upon the Lord and
pray for you, grace sufficient for every day's need.

With much Christian love,

Yours in the service of our Lord.

MAR*V.

Government's Exhibit 17A.

Fenton Beach, N. J.

3704

In care Pfister.

Jan. 15-1918.

Dear Sir.

I would be pleased to know as to how I could become a member of this Association. Would like some enformation, I have the Seven Volumn of Pastor Rusel work and think they are grand and would like to help in the work all I can and, would like a Pal and would like to handle some boaks later if it would it would be a help in in getting the word to the people that seemes to be in darkness.

3705

if you can give me information to become o' member I would be obliged.

Yours,

R. L. MATHEWS.

3706

Government's Exhibit 17B.

January 28th, 1918.

Mr. R. Mathews,
Fenton Beach, N. J.

Dear Sir:

We answer your letter of the 14th of January, in which you inquire about the possibility of becoming a member of our Association.

3707

We have nothing to join in the ordinary use of that word. Everyone whose heart is fully consecrated to the Lord and who accepts Jesus Christ as his Savior, and who is studying the Bible in the light of and with the help of the publications which this Society issues, may properly consider himself an associate in the work. All such find that they have a deep community of interest in all affairs of both the present and the future. Their relationships are much closer in heart than are the relationships of most people in the oldest ecclesiastical organizations. You will see, therefore, that it is a matter of your own heart attitude toward the Lord and His work, rather than perfunctory subscription to any given set of rules.

Very truly yours,

3708

FHR/Z.

Government's Exhibit 18.

3709

January 22nd, 1918.

Mr. H. G. Madison,
1019 10th Ave. So.,
St. Cloud, Minn.

Dear Brother:

We were very glad to hear from you under date of the 18th of November, and are sorry to have kept you waiting for a reply. From now on we hope to be able to respond more promptly to the communications received.

3710

We note your question as to how to become a member of our Association or Society. We have nothing to join in the ordinary sense of that term. The INTERNATIONAL BIBLE STUDENTS ASSOCIATION classes are classes of individual, consecrated believers in the Lord Jesus who are studying the Bible in the light and with the help of the publications of the Society. They have subscribed to nothing, except to do the Lord's will as found expressed in His Word. In fact, this is the closest tie possible to be had. Viewed outwardly from the world, it leaves much to be desired.

If you have Christ as your Savior and Redeemer from sin, and have given your heart in full consecration to the Lord, and are striving day by day to walk in the footsteps of our Master, then you already have a community interest with all those who are striving to do the same thing. You would naturally wish to associate with those of like precious faith. If such is your desire, we can advise you where in your locality meetings are held.

3711

Very truly your brethren in the Lord,

FHR/Z.

3712

Government's Exhibit 19.

February 12th, 1918.

Mrs. W. C. Kemple,
Electra, Texas.

Dear Sister:

So far the President has not defined non-combatant service, and such service under that name which is being performed in camp is volunteered by those engaged in it. It is not necessary to volunteer for such service, and we usually advise against it pending some statement on the part of the President which he may, or may not make later.

3713

Very truly your brethren in the Lord,

FHR/Z.

Government's Exhibit 90A.

ED LOTT

Sumrall, Miss.

Jan. 28, 1918.

The Watch Tower
Brooklyn, N. Y.

3714

Dear Friends:

I enclose the memoranda of my "Good Hopes" for 1918. I will send it quarterly if the Lord prospers me so I can.

I am of draft age but the Local Board of my county exempted me from the fighting part because of me being a member of the I. B. S. A. but they did not exempt me from the non-combatant part. Do you think it would be displeasing to the Lord to serve in the latter?

Make mention of me in your prayers.

Yours in the Lord's service,

ED. LOTT.

Government's Exhibit 30B.

3715

February 14th, 1918.

Mr. Ed. Lott,
Sumrall, Miss.

Dear Brother:

We have your letter of the 28th of January stating that you have received classification in non-combatant service.

Since that particular non-combatant service which the law speaks of as being given to conscientious objectors has not yet been defined by President Wilson, we suggest that any decision on that point be held off until he does make such definition. Such non-combatant service as is now available in camp is assumed voluntarily, and under the circumstances we rather advise that it be declined.

3716

Very truly your brethren in the Lord,

FHR/Z.

Government's Exhibit 31A.

Jennie, Ark.,
Jan. 30th, 1918.

3717

Watch Tower B. & Tract Society
Brooklyn, N. Y.

Dear Brethren:

The Local Board here has classified me in Class 1 Div. A. non-combatant service & of course I am going to appeal it, and I would appreciate it indeed any advice or information you could give me that would help me. As surely I need spiritual help I need to be a faithful witness in this day & time.

3718

Government's Exhibit 21B

I have the 1st volume Studies, but gave my 4th volume away & if you think well that I have quotation from 4th volume about our attitude toward war please quote it for me.

Most of the elligibles men here are much opposed to going & only go because they have too while the older ones seem very mad & anxious to go, but none of them are going.

Enclosed find stamped envelope.

Praying God's blessing on all the work & asking for remembrance in your earnest prayers, I am,

3719

Grateful to be your colaborer in Christ & partake of his suffering.

W. E. DRANE,

Fomer address Ashton now moved to Jennie, Ark.

Government's Exhibit 21B.

February 15th, 1918.

Mr. W. E. Drane,
Jennie, Ark.

3720 Dear Brother:

We reply to your letter of Jan. 30th respecting what you consider to be improper classification by the Local Board.

Your appeal may or may not alter the situation. If it does not we think you would be best blessed and most happily representing the Lord's cause by declining to accept military service with such classification. The law provided for conscientious objectors to be placed in Class V non-combatant service. So far the President has not defined non-combatant. Until he does it seems to us advisable to decline to volunteer for such

service. If your classification remains as it now is you will be subject to the call, however, though not subject to active military duty. When taken to camp you would not need to decline active war service, but decline such service as they may call non-combatant until such time as the President defines that term.

Very truly your brethren in the Lord,

FHR/Z

Government's Exhibit 22.

3722

UNA BUONA TESTIMONIANZA DI FEDE

I Timoteo 6: 11, 12.

Pinerolo, 19 Settembre 1916

DILETTO FRATELLO IN CRISTO, CAPITANO DELLA
NOSTRA FEDE:

Perdonami se non risposi prima alla tua cara lettera in data del 20 Luglio 1916 indirizzata alla mia bambina. Ti scrissi una lettera che dece essersi incontrata colla tua come questa pure si incrocerà (è più che probabile) con un'altra delle tue! Ma pazienza, non voglio aspettare più di darti un riassunto del processo che ebbe luogo ad Alessandria e nel quale il diletto fratello Remigio Cuminetti diede una bella testimonianza della sua ferma fede. La sorella Fanny Lugli ed io vi abbiamo assistito, felici di avere avuto il privilegio d'appoggiare colla nostra presenza la confessione di fede del nostro diletto fratello. Il Presidente l'interrogò a lungo e non potè mai prenderlo in fallo nè in contraddizione contro a sè stesso. Eccone in due parole il riassunto:

3723

PRESIDENTE: "Accusato stia attento, è davanti al tribunale e la sua causa è grave; sembra che abbia voglia di ridere!"

Il fratello CUMINETTI risponde: "Non posso cambiare l'espressione del mio volto. Ho il cuore così pieno di gioia che il mio viso riflette l'allegria."

PRESIDENTE: "Perché non indossò la Divisa militare rifiutando ripetutamente di servire la Patria?"

3725 CUMINETTI: "Se non fosse per quello, non sarei qui, non avendo commesso nulla di riprovevole, all'infuori di non aver voluto indossare una Divisa che non è adatta per i figliuoli dell'Iddio che io servo. Per la stessa ragione mi rifiutai anche di mettermi il distintivo obbligatorio nella fabbrica dove lavorava, perché quelle stellette rappresentavano la Guerra e l'Odio; invece che il distintivo dei figliuoli di Dio dev'esser la pace e l'amore pel prossimo."

PRESIDENTE: "E' vero che nelle carceri di Cuneo vi siete svestito e siete rimasto in camicia e mutande?"

3726 CUMINETTI: "Sì signor è perfettamente vero. M'avevano vestito a forza tre volte, ed io per tre volte mi svestii, non volendo indossare una Divisa che per me implicava odio per il prossimo. Non è ch'io mi sia ribellato o rivoltato di fare del bene agli altri. Anzi se le avessi darei cento vite fino all'ultima goccia del mio sangue per il bene del mio prossimo. Mi diano qualunque lavoro, anche il più ignominioso ed abietto, da fare, ed io molto volentieri mi adatterò a tutto per sollevare altri; ma GIAMMAI moverò un dito per fare del male o del danno ad un mio simile, il quale Iddio mi dice di amarlo e non odiarlo."

PRESIDENTE: "Che scuola ha fatto?"

CUMINETTI: "Quello ha poca importanza, ho studiato la Bibbia."

PRESIDENTE: "Le domando che scuola ha fatto. Risponda a quello che le vien domandato."

CUMINETTI: "Ho fatto fino alla terza e per due anni ho seguito i corsi serali; ma le ripeto che quello ha poca importanza in paragone a quanto imparai studiando la preziosa Rivelazione divina."

PRESIDENTE: "Ha passato la visita militare?"

CUMINETTI: "Sì, fui visitato tre volte."

PRESIDENTE: "Peccato per lei che sia venuto alla conoscenza di certe persone (la sorella Fanny Lugli ed io) che l'hanno messo su una falsa strada. Da quanto tempo studia quel libro (con disprezzo) che chiama Bibbia?"

CUMINETTI: "E' da sei anni che studio quel Libro; e mi rincresce solo una cosa; di non averlo conosciuto prima." 3728

PRESIDENTE: "Chi è che vi insegna quella nuova religione?"

CUMINETTI: "Iddio stesso insegna i Suoi. Gli Studiosi della Bibbia più anziani mi aiutano a comprendere la Verità, ma Iddio solo apre gli occhi del nostro intendimento."

PRESIDENTE: "Sapete voi che è molto grave il vostro rifiuto di ubbidienza? Siete voi pienamente coscieri e di ciò a che andate incontro?"

CUMINETTI: "Sì, sì! lo so benissimo; son pronto a tutto quel che può venire, anche alla fucilazione, ma non posso rompere il mio patto col Dio della Bibbia, il quale io adoro." 3729

Il President dà la parola all'avvocato governativo che condanna o domanda la condanna di Cuminetti a 4 anni e 4 mesi di reclusione.

L'avvocato difensore si alza e rende una brillante testimonianza alla condotta esemplare del nostro diletto fratello, che lavorò nelle officine per sei anni consecutivi senza che mai nessuno avesse potuto rimproverarlo, neppure dirgli una parola disonesta o dissonante. L'avvocato disse: "Remigio Cuminetti si

rifiutò di mettere il distintivo della guerra perchè portava già all'occhiello il distintivo dei figli della pace e della gioia. Il Cuminetti non ha voluto accomodarsi colla sua coscienza, ossia non ha voluto agire contro la sua coscienza. Mettendosi quel distintivo rimaneva al suo posto esonerato e riformato con un discreto guadagno vicino ai suoi cari, egli preferì la via del sacrificio, cosciente pienamente di ciò che implicava il suo rifiuto. Con calma e serenità si allontanò di tutto. Il caso di Cuminetti è un caso eccezionale, un caso unico in Italia e noi dobbiamo ammirarlo. Il Cuminetti lesse nella Bibbia che Iddio comanda. "Non uccidere," ed egli non vuole uccidere. Come un "Tolstoi," un "San francesco d'Assisi" egli è apostolo d'Amore. Il Cuminetti è in perfetto possesso delle sue facoltà mentali. (Volevano farlo passare per scemo o matto, naturalmente!) Non è il Cuminetti che *agisce* ma è lo *spirito della Bibbia che si è impossessato di lui*, e che lo fa agire contro i suoi interessi personali."

3731

3732

I giudici escono, e dopo cinque minuti ritornano e leggono la sentenza: "Il Cuminetti per rifiuto di ubbidienza al Re ed alle leggi della nazione vien condannato a tre anni e due mesi di detenzione." Il fratello Remigio ringrazia allora con un suo speciale bel sorriso.

Quando il Presidente gli domandò se avesse qualche cosa da aggiungere per la sua *difesa*, egli rispose: "Io avrei tante cose da dire *sull'amore* di Dio e sul Suo Piano di Redenzione per la salvezza di tutta l'umanità." Il Presidente essendosi annoiato, disse: "Non è quello che le vien domandato, ne abbiamo già sentito troppo sopra questo soggetto, domando se ha qualche cosa da aggiungere per la sua *difesa*." No rispose Remigo con viso raggiante. "Le ripeto solo

ciò ch'io ho detto; cioè, son pronto a dare la mia vita per amore del mio prossimo; ma moverò un dito fargli del male dovess'io pure essere *fucilato*."

La seduta è tolta. La sorella Fanny ed io abbiamo potuto avere un quarto d'ora di trattenimento col nostro fratello diletto il quale con tanto coraggio e forza prese la parte di Dio. Tutti lo ammirarono. Perfino i giudici e gli accusatori rimasero meravigliati del suo contegno umile, ma nello stesso tempo pieno di coraggio del quale solo i figliuoli della luce posseggono, perché non sanno inginocchiarsi che davanti al Signore solo—degno di adorazione e di assoluta obbedienza.

3734

Per ora il diletto fratello Remigio è a Gaeta, un posto splendido, pieno di sole e d'incantevole bellezza della natura. Egli scrive lettere esultanti di amore e di gioia, dicendo che non gli sembra neppure di essere in prigione. Tutti gli vogliono bene. Di fatto per i figli di Dio le mura di pietre non sono una prigione; cancelli e sbarre di ferro non sono gabbie; sotto al ferro ed alle pietre l'anima innocente troca un pacifico eremitaggio. Cos'è il disprezzo senza la colpa? La virtù sprezza il disprezzo degli uomini, ed il castigo non meritato è una prova lampante per l'innocenza ed accumula sopra la testa un gran peso di gloria futura.

3735

Affettuosi saluti a tutti i fedeli ed a te, caro fratello De Cecca dalla

Vostra piccola sorella nella lotta

CLARA CERULLI

Salmo 46 San Giovanni 15:9-13.

LA MIA RISOLUZIONE MATTUTINA

DESIDERO CHE IL MIO PENSIERO MATTUTINO SARA':

Che renderò io al Signore per tutti i Suoi benefici che son sopra me? Io prenderò il calice della salvezza e invocherò il nome del Signore (per grazia d'aiuto). Io pagherò i miei voti al Signore."—Salmo 116:12-14

3737

Ricordandomi della chiamata divina, "Adunatemi i miei santi, i quali hanno fatto meco patto con sacrificio" (Salmo 50: 5), Io risolvo che con la grazia assistente del Signore adempirò oggi, come un santo di Dio, i miei Voti, continuando l'opera di sacrificare la carne ed i suoi interessi, acciocchè io pervenga all'eredità Celeste in coeredità Celeste in coerdità col mio Redentore.

Mi sforzerò di essere semplice e sincero verso tutti.

Hon cercherò il piacere e l'onor proprio, ma quello del Signore.

Sarò attento d'onorare il Signore colle mie labbra, affinchè le mie parole siano untuose e benedette a tutti.

3738

Cercherò d'esser fedele al Signore, alla Verità, ai fratelli ed a tutti color coi quali avrò da fare, non solo nelle grandi faccende, ma anche nelle piccole cose della vita.

Affidando alla cura divina e al governo della Provvidenza me stesso e tutti i miei interessi pel mio alto bene, cercherò non solo d'esser puro di cuore, ma di respingere ogni ansietà, ogni scontento ed ogni scoraggiamento.

Non mormorerò e nè mi lagnerò di quel che la Provvidenza del Signore permetterà, perchè

"La mia Fede sarà ferma in Lui, Checchè m'accada."

The Watch Tower, Dec. 15, 1916, P. 386.

POESIE

1

Ci benedica Iddio, ci benedica
Colui che di ogni cor vede l'interno;
E nei nostri timori il raggio Eterno
Con forza ci guida con amor.

2

Egli possente, immenso, e giusto e buono;
Non ci abbandona, non ci lascia soli
Ma ci sorregge negli eccelsi voli
Nelle lotte pel bene e per l'amor.

3740

1

Gloria al Padre Celeste, doniamo
A Lui solo del cuore gli affetti;
Gloria a' santi posenti suoi detti;
Gloria al dolce Maestro d'amor.

2

Gloria a lor, dal profondo innalziamo
L'inno ardente di fede, e ripieno
Dell'amor che ci ferve nel seno,
Che ci afforza nei nostri dolor.

3741

3

Oh! per Te Salvatore Divino
Ogni pena ci è dolce, ci è cara;
E la morte, la morte sì amara
Pei mortali, per noi non è già.

4

Anzi bella sarebbe al mattino
Di quest'Era così luminosa;
Dar la vita alla speme radiosa
D'una gloria ch'eterna sarà.

3742

Government's Exhibit 23

5

Forti dunque negli aspri cimenti,
Nella guerra che il mondo ci giura,
Lotteremo al tionfo della pura
Nostra fede in un giorno miglior.

6

Lotteremo e con trepidi accenti
Nella gioia che ci anima il core
Canterem la possanza, l'onore,
La giustizia di Dio Salvator.

3743

Government's Exhibit 23.**WATCH TOWER BIBLE AND TRACT
SOCIETY**

13-17 Hicks St.

BROOKLYN, N. Y., U. S. A.

Brooklyn, N. Y., Oct. 4th, 1917.

Tower Press,
City.

3744

Please fill the order below as soon as possible and
bill us.

Items

10,000—9-5 Los Angeles Imprint

10,000

10,000—6-5 German

10,000—7-3 "

10,000—6-5 Polish

10,000—8-6 Regular

10,000—7-8 "

10,000—8-4 "

Special Instructions:

In billing refer to order No. D1881

(Sgd.) MILLER.

Government's Exhibit 24.

3745

Camp Dix, Company D, 307th
M. G. Battery, Military Branch,
Camp Dix, Trenton, N. J.

Watch Tower Bible & Tract Society.

Dear Brother in Christ:

I will let you know that yesterday, October 5th, while the company was getting ready for military training, I made a good confession of my faith. Since we arrived here in camp I was allowed the same freedom as others in going about. I have told the captain many times that I would not have training myself for military service, because it was against my conscience, and in each case he answered me that with military training I would never kill anybody.

3746

Things went along in this way until yesterday afternoon, Oct. 5th, when the captain ordered everyone to take a stick in his hand to use instead of a gun. As I did not take the stick the captain shouted at me, "D'Onofrio, take the stick." And I answered him, "I cannot take it because my conscience will not permit me," and he again shouted, "D'Onofrio, take the stick; don't you know that you are now under our command?" And I replied, "No, I am not under your command; my commander is God and nobody else." Then he called on a company of eight persons to force me to take the stick and I threw myself on the ground saying, "Do what you want with me; God's will be done." Then the Captain run on me with a gun and bayonet, as he was the only one who had a gun while all the others used sticks.

3747

He came at me and pointed the bayonet of his gun on my chest, saying: "Don't you know that you cannot refuse military service; take the stick right away, otherwise you will be punished with death by

martial law," and I answered: "Is the martial law greater than our Lord, Savior and Creator of the world?" He answered, "No, but you must obey our command; otherwise you will be punished with death." I answered, "I don't care; I read in the Bible where it says: 'Thou shalt not kill.' I don't want to kill; do what you like with my life, but I will not kill."

3749

Then he grabbed me by the chest and took me before the colonel, and the colonel said: "Take him in the prison right away," but when they saw I was very strong on the Lord's side, they said, "Let him do other work." So they have put me in the kitchen. They already knew my intention but tried to frighten me and thereby cause me to change my purpose. Now they make me get up at 4 o'clock in the morning and work until 10 at night for spite, but I don't care for the Lord will overrule their bad treatment.

3750

If you don't believe that I made this confession of faith you can inquire of the following persons: Robt. Picciotti and Joseph Bernardo who were in the same company at the same time, because when I refused to take the stick the whole company of 185 persons shouted at me, and I was continually saying while they were shouting, "I don't want to take the stick because it means to kill humanity. This is against the Lord's commandments." They don't even look at me, but they can do with me what they like; the Lord's will be done.

I ask that this letter be published in the next issue of the WATCH TOWER. I have not received the WATCH TOWER here in the camp; maybe you have sent it to Wilmington.

Will close now. I have many things to say which I cannot express so well in a letter and would like to talk with you personally to be able to tell you about all of the experiences thru which I am passing.

Government's Exhibit 25

3751

With greetings to all the brethren of the Italian
and American classes, I remain, affectionately,

Your brother in the Lord,

FRANK D'ONOFRIO.

I don't know what more they will do to me. Now
all the officers are against me.

Government's Exhibit 25.

Jerry De Cessa
Co. A. 304th Infantry
Camp Devens, Ayer, Mass.

3752

Unsectarian	One Lord
Inter-Denominational	One Faith, One Baptism
Christian	One God
Names enrolled in Heaven	And Father Over All
Heb 12:28	Eph 4:5.6

**INTERNATIONAL BIBLE STUDENT
ASSOCIATION**

(Picture of books and Cross)
(and Crown encircled by Wreath)

"Wisdom from above; the noblest science;
the best instruction."

3753

Branches	Head Office
London, Barmen, Melbourne, Copen- hagen, Orebro, Christiana.	15-17 Hicks Street, Brook- lyn, New York, U. S. A.

Ottobre 19-1917

Brooklyn, N. Y.

Dear Jerry:

We received you card of the 17th inta. Glad to
hear from, and that you went to Lowell, Mass., and

3754

Government's Exhibit 25

saw the class there. I could have sent you the address of the classe bu I nevery thought that you could go to see them.

With this letter I am sending to you the Name and address of Bro. Nicita.

Bro. Carmel Nicita

30th Co. 8th Tra. Batt.

Camp Devens, Ayer, Mass. I donot know if it is alright, but this is the way he wrote us, I have writtin to him but I donot know if he have riceved my letter yet.

3755

I hope that you will not be surprise when you see him. I understand that the captain have convince him to put on the uniform. Il capitano gli diissi Domenica Ottobre 14th, thta if he want to gone see his brethren in Springfield, the brethren in the Truth, he could go, but he sould put the uniform on him, and so he did. The friends were non so plased when they saw him with the uniform on. He did not realise what that meen, if he had he would not have done it. It meen Soldier. I think he will see the great mistak, if has not already see it. What is the use to be arrested because donot want serve, and then turn around a put the uniform on. If we be-

3756

liev it to be a wrogn thing at one time it is a wrong thing at all times. If we have consacreted aoursel to the Lord and have accepted Christ as our captain, can we serve another captain? No; we cannot serve two masters. Only one at time. In the past we have been serve the wrong master—Satan and sin!! Now we are serving GOD. We know that those who have not consacred, and donot understand God's plan and porpuse, wi not not understand us, but, it is for us to let them see what we do believe, and what is the wright thing for us to do. "Do what is wright and come what may." We are not to be faithful one day

or one week or one year, we are to be faithful unto "death," Revelation. 2:10 ecc. 8.

I hope Jerry that you will not go back on your covenant which you made you God at your consacration. That covenant meen to serve the Lord and no one else. God is above everybody else, dose not make any difference who it is. There is no one under the sun that he can say that he is above. And we have consacrated ourself to God, therefore we must be faithful to Him! We must not manifest a wrong spirit, in umility, but in ferminess, positive. It sould not take but e moment to see waht is the right thing for us Christians. We can serve only one Master, if we obey the heartly captain we must diobey our Heavenly capitain. If we obey our Heavenly captain, we must disobey our heartly captain, one of the two, which shall we obey! Is foe each one of us to dicide. I decided to obey Christ Jesus', don't you?

3758

Jerry will you let me know if can read Italian, I can write you better in Italian if can read it. So plase let me know. Remember that will you?

Try to see Bro. Carmelo Nicita, and the same time see if the address he gave is right.

3759

Riceveid lots of love from all of us.

I am Your Bro. JOHN D^eCECCA.

Psa 91:1-16, 46:23:

P. S. Read al you can the ward of God—The Scrip-
ture Studey.

3760

Government's Exhibit 26A.

Oct 24 1917 J. DeC.

Dear Lucy we just rec'd this letter from Jerry & we are sending it to you, please send it back to us after you read it. Love to all your Bro. & Sr. J. & G.

Monday 7.30 P. M.

Dear Bro. & Sr. in Christ—

3761

Well bro. Nicita and I had a fine time together yesterday at the Class in Lowell he surely is a fine brother. Well John the thing I have been waiting for finally happened. This A. M. the Captain ordered me to fall in line to drill and I told him I would have to refuse as I have consecrated my life to do the Lord's will, so then he sent me to the guard house to await court martial. If you write bro. Nicita let him know that I am at the 151st Regiment guard house so if he wants he can come to see me, but if you write to me send it to the old address and then one of the guards brings it to us, don't send it to this address Well so far they have treated me quite well, there are about 20 others here for different reasons but one fellow believes exactly as we do. Well dear folks, I'm trusting in the Lord his will be done pray for me that I may be strong in his service. Give my Christian love to all the dear friends who know me there. Write soon your brother in Christ and in the flesh. Jerry DeCessa.

3762

P. S. They let me have all my things and books so will have time to read. Brother Olsen of Lowell asked me to remember him to you.

On back of sheet.

Dear Grace

Was very glad that you sent us news from Jerry. And thanking you very much I remain with love.

Your Sister

LUCY SCORPELLO.

Government's Exhibit 28B.

3763

Ottobre 26th, 1917.

Brooklyn, N. Y.

Mr. Jerry De Cecca
Co. A 304th Infantry
Camp Devens
Ayer, Mass.

My dear Bro. Jerry:

I write these few lines to say that I have told to Bro. Rutherford about your case that you are under arrest and waiting Marshal decision. I asked him if you should have a lawyer in defenting your case, and he said thta might be a good thing, but he said then, where will we get a good one that will be on you side! They are all afraid to spek anything that wolud have the tendesiy against the government. They are alla for War! And any one who think differ-ently is no good, they said. So you so dear Jerry, that you cannot trust in any one at this time, expcet in the Lord's power and Grace.

3764

So then what you would have to do is, to put yourself in the Lord's hand, and when the case come up before the Court Marshal Tribunal, you can state your position, why you cannot ingauge in such service. You know that overthing you said will be taken down so that the same will be sent to the Government. So then, think well in your mind the most important points, and when you are asked you will answer them. If you will studey Bro. H. Cumminetti's letter, you will git a good points there. Let the Truth do it work!

3765

You don't need to fear, because they will not shot you down for there is no such law yet. What they might do with you is, to sent you to the Federal prison, and if they sent you there, it will be much

3766

Government's Exhibit 26B

better than go to the trenches, don't you think so? I think so! Much better to go the prison that go to the trenches in France. So then dear Jerry, have a good courage and trust in the Lord. We are not be afraid what a mortal man can do unto us, said the Apostle.

3767

You want have these few points very clear, and that is: that you are a member of the INTERNATIONAL BIBLE STUDENTS ASSOCIATION, which have been in existence for over 30 years, and that the said Association forbids its members to participate in war in any form, and are agaist war in any form; that the said Association, and its members adhere strictly and literally to the TEACHINGS of Jesus and the Aposles as set forth in the BIBLE, to-wit: "THOU SHALT NOT KILL." "AL THEY THAT TAKE THE SWORD SHALL PERISH BY THE SWORD." "No murderer hath eternal life aoin in him." "Follow peace with all men, and holiness, without which no man shall so the Lord." The Son of Man came not to destroy men's lives but to save them." And we "Called to follow in His footstep followers of Jesus." "As we have opportunity let us do good unto all men." Said that you bealeve the Teachings of Jesus which are clearly state in the Bible, and that you have consacrated your self to do the will of the Lord at any cost. Said, that you have already make yourself a soldier of the Cross of Christ, and he is you captain, and therefore you cannot serve two masters. Your master is Christ Jesus and that you are serving Him. "Exodus 20:13, Mathew 5:21, Roman 13:6-14, Like 9:51-36, 1 Peter 2:21, Galatians 6:7-10. Christ is our Captain (Hebrews 2:10). Our armour are not carnal Ephesians 6:10-16:17.

3768

Nodubt they will tell you that the old testament

teach war ecc. But you can answer them by say: "I am not a Jew, but I am a Christian. The old testament is for the Jewish people, and the New Testament is for us Christians. I am not under the teaching of the Old Testament, but under the New Testament, I am "under Grace" ecc. You might say that the Jewish people were a teyp of us Christians, they were to fight litteral fights with litteral swords, but we Christians are to fight the Godd fight of faith with the Sword of the Spirit—the Word of Godd. We are to fight with the symbolical Armour Ephesians 6:10-17.

3770

I am enclosing a copy of the Watch Tower of March 1 1917 and in it you will find Bro. Remigio Cuminetti's letter of his trial before the Military Tribune. I think that you can learn some thing from reading it.

Now Jerry, will you keep us informed of things that are taking place, I mean to let us know how things are work out and when your case will come up, so that if it might be possible for me to come up there I like to do.

Well, Jerry we are right in the time which we have been look for so long. We see it more clearly to day that we are approcing the finely end of the evil world—"Age" and that the Kindom of our dear Lord will be established for the blessings of all mankind, when there will be no more "War" Isaiah 2:2-4, the time is not vere fare away, when the nations shall learn war no more. Micah 4:3, 4.

3771

Trust in the Lord and be of a good courage and the Heavenly Father will give you strength. Lots of love from all of us I am Your Bro. in Cristo and in the flesh

GIOVANNI DECECCA.

Read Daniel 3:1-30 but
especially verses 8-30.

3772

Government's Exhibit 37.

Dear Jerry De Cecca 2nd Sepet Co. 8th Bn.
 Depot Brigade
 Camp Devens Ayer, Mass.

Novembre 14th, 1917,
 Brooklyn, N. Y.

Dear Jerry:

3773

Your letter of the 10 Nov. writtin together with Bro. C. N. was received; very glad to hear from you. Glad to know that you are well, still trusting in the Lord's grace, and hope that you will continue to the very end of your earthly career.

3774

And now you would like to know if you sould do some work in the Hospetal ecc. If it would be right or wrong. Well, jerry, we cannot tell you or any other what they sould do or should not do. It is for each one to deciding for himself what to do, the only thing we can do, one to another is, to advising according to the word of God, and so I will just tell you what I would do if I sould find myself under the same condition as you are. I would settle the matter once for all time; add this is what I would do: As soon as I reach the camp I would try to have an interview with the General-Major General, and tell him that I was there under protest, that is, I was brought there by force and not by my own will. I would tell hime that I could not take any part whatsoever in the military service, because it was against the teaching of the Word o God. And as I had consacrated my self to do the Lord's will—as a good soldier of the Cross of Christ. 2 Timothy 2:1-5, and I have to fight the good fighting of Faith. 2: Timothy 4:7. And that having made a full consecration of myself unto the Lord, I colud not servi any others, and brack my Covenant with God of my

salvation, and particularly in the service of War! And if the General or any one else should say to me; Well we understand your position, we know that your conscience will not permit you to do wrong, to go to fight etc. but we will give you some work that would not be war. I would answer, that there was nothing that it was not war! To me was all War! If he should say: I will give you a Hospital work, would you like to do that? I would answer no! And if he say to me why you would not work in the hospital? I would answer thus: Because to me is all WAR! It is one big machinery working together, and that machinery was composed by many parts, but the one big name, was WAR!!! MILITARISM. So long as I was working under these orders to me was military service—War! To do something in order to avoid punishment etc, it would mean to compromising, and violating the principles of the teaching of God's Word. But he may say: Why would you not work in the hospital, or any other good work? I would answer that, so long as I was doing it under the military order it was WRONG for me to do, I know that by refusing to do I would be punished in some way for refusing their order, but if I would not refuse it, that would mean that I would have to compromising the Truth, and violating the principles of my belief—the teaching of the BIBLE. And again he would say to me, well, sir! wouldn't you like to do a good work? I would answer Yes! but not under order. But if he should say, well, we will let you do whatever you like to do, we will not tell you what to do, but let yourself choose whatever you want to do—of course they will not do anything like that, but suppose they would, then I would look and see what good work I could do

3776

3777

3778

Government's Exhibit 27

with my own free will, what good I could do to my fallow men to help them in any way, I surely would look for any opportunity, I would do what the Bible says: "Do good unto all men as ye have the opportunity, by Espacially to those of the household of faith." Galations 6:10 ecc. but I would not do any thing under military order. But he would say to me. What is the difference, to work under military order, and work by your own free will? I would answer that is a great difference. To work under military order, would meex: to give my concent to cooperating with in the military service which mees, War! to do some thing by my free will be a different matter altogether. Of course if I should be lafter my choising, to stay in the Camp or go home, I would surely go home and do some good work at home, but if I was not lafter to that lebirty, then I would stay there as a prisoner, and do whateverly I would think to be a good work to do, as the opportunity would presenting themself to me. But to do anything under military order, I would not do any thing! I would not put the uniform on me at all, if they would put one me by force, I would take it off just as soon as they would put it on. I would not do little now and little then, just because they tell me to do. I would take the stand once for all time. But not everybody can do that, some do not see that, not even the Uniform should be put on, because the uniform rappresent War! Howeverly jerry, you most not do what I said that I would, maybe that if I was in your place now, may not be able to do, so I would have to wait until I have to be put under test.

3779

3780

Now Jerry, since you have put on the uniform and probable you have already done some kind of work, I think you better keep on doing some work that you will be order to do, and that you think it will be al-

right, that is, it does not both you conscience. Working in the Hospital is not a bad work.

You know that the officers do not know the difference between the full consacrated Christians and others who are against war for other reasons, and no work has been order by the President that the conscientious objectors should do. The officers in the camp do not know what they should do with the conscientious objectors, really they have no raght to force them to do anything, they have no right to force the uniform on any one, nor force to do some work, the President is the One that should designated any kind of work yet. All the officers know that very well, of course they do force the conscientious objectors to do something, but they have no right to force them, but when they do force some one to do work by force, they do overstepping their authority. The Congress of the United States have made aprovision in the Selective Draft Act, to the effect that no person should be COMPEL to engage in the military service who is a member of a well recognized religious organization, the creed or principles or teachings of which forbid its members to engage in war or which are against war in any form. And why want any one violeting the Law which was made by the Congress? When we refuse to obey the commands of the officers, we do not violeting any law. Therefoer, if I should find myself under the same condition as you are and the other Brethern, I would refuse to do anything whatsoever, I would not do any military service under no condition. As I said in the beginning of this letter that I would make myself very plain to the High offece as soon as I would get at the Camp, and if he or any other offece would order me to do work in any form. I WOULD REFUSE TO DO IT.

3782

3783

3784

Government's Exhibit 27

And if they mistreating me in some cruel manners, I would tehnn made an Affidavit before a lawyer or public notary, by telling him all the facts, and the Name and number of the Captain ecc. who had to do with my mistreatment, and sent the affidavit to the Society. They have no right whatsoever to mistreat any one.

3785

I understand that Bro. Nicita and the other Brethern have been given a cold bath, and then either to put on the uniform or go naked, ecc. This was a very Cruel Act, a violation of the Law under which we yet abiding.

3786

If we believe that this war is the last one, and that all the kindgmon must go down, so the kindom of Christ be established, should we have any part in the military service? I answer No! I would not do the slite thing, it is all War! as long as it is Militarism, it is War! We cannot make those offecers see, because they look at the matter for another stand-point, but it is our business and duty to let them know by take a stand for what we believe. If our stand should cost us something, we should be glad to suffer for the Truth seek. We cannot servi two Masters. We should usea plain language, humble, but positive. We should not talk in any bad manner to the offecers, but in ahumble manners, but in a positive way, that they cannot think that we will every change our position. We should tell them that we have consacreted ourself to the Lord and will not go back on our covenant, and if they cannot understand our position, it would not be our fall. The Bible says: "THOU SHALT NOT KILL," and to servi militarism in anyway, meens to "Kill." La Bibbia says, "he that hate his Bro. is a muderer. 1 John 3:15, to servi militarism is War!

I think I have said enough. Now Jerry, do not do what I said that I would do, but use your own conscience about the matter, if you think that you can stand the trials then do what you think it is right for you to do. As for me I will serve the Lord alone! "Do what is right, and comes what may."

My the Lord bless you and all the dear Brethren, more and more in these trials time. With lots of love, I am Your Bro. in Christ and in the flesh.

GIVANNI DeCECCA.

3788

Government's Exhibit 28.

(Picture of Building.)

RICE HOTEL

(Coat of Arms)

Houston, Texas, January 28, 1918.

Mr. Jerry DeCecca,

2nd Separate Co., Depot Brigade,

Camp Devens, Ayer, Massachusetts.

Dear Brother De Cecca and others:

Your very kind letter to hand and I rejoice with you that the Lord is giving you privileges of fellowship together and study of His Word.

3789

Be of good courage, dear brethren, and hold fast. A little while and the fight will be over and then you will be glad that you have stood firm in the Lord and the cause of righteousness. We remember you continually at the Throne of Grace and ask a continued interest in your prayers.

With much love and best wishes, I beg to remain

Your brother and servant by His grace,

J. F. RUTHERFORD.

Dictated but not read.

3790

Government's Exhibit 99.

Camp Dix, N. J. Oct. 6th, 1917.

Watch Tower Bible and Tract Society,
13-17 Hicks St.
Brooklyn, N. Y.

Fratelli in Christo:

Ti foro sapesse che a ieri giorno 5 mentre si pre-
para la Compagnia per sone l'istruizioni d'arm i ho
fatto una grande confessione d'fede.

3791 Essendo che da quando obbiamo arri voti que nel
compo mi hanno fatto fore le passeggiato assieme cogli
altri io cio lo detto al capitano poreichie volte chenon
volevo sone listrugion perche era contro la mia cos-
cienza e leu mi hi semple risposta che coli istruzioni
non al unmazzi mai nessurio e cosi io ho tirota avanti
vino a ieri dopo pranzo, quando il capitano ha fatto
prendere attutti un pezze di legno oxis una stick per
ciossuno, per cisarlo come fucile. To non ha voluto
preundere la stick Ti capitano na ha gridoto: "D'ono-
frio prende la stock" ed io ho risposto, Non posso
prerderla perche la nia coscienza non la richiede e liu
dinuoro disse: "D'onofrio prende la stock" Sou che
voi adesso sei al nostro comando" To ho risposto:
3792 No, is non sono nel vostio comando, il onio comanda-
tore e Jiddis e non piu oltri: Allora hu chianlo una
Squadra di otto persone per forzarnu di pierdere la
stecche, e io un ho bittato per terra dicendo: Fote
quello che volete su dime Jiddis ei penzera. Allore
corse il copitano su di me col fucile colla baionetta
che solo lui ciaveva il fucile propriis e lutti ojbi soldati
usavano le stecche per che fuci le non ce l'anno Lui
venne su dime e nu punto il fucile colla baionetta sul
petto dicendo: "Sou che to non prior ri-fiutare il
servigion military subito prende lastecca altrumendo
sarsi punito a morte dolla Leggia marziale" To

rispose: E la legge Morziole piu forte del nostro signoro Golvatore e Creatore del Mondo? Liu rispose "No, ma tu deve fore il nostro comando, altrimenti saroi punito a marte" To rispose: Non imposte To legge nella Bibbia dovo dici "To non deve ammazzare." e is non voglio ammazzare, foto quelle che volete sulla vita mia ma is non mai ammezzero, Alloro liu hir prese per il petto e nu porto d'avanti al Colonello e il Colonello rispose: "Portali in pugione subito Me poi vidde che io era proprio forte qualche labore Così na hanno messo in cucina. Loro lo sapevano quolera la mia intezione ma hanno provate di mettermi paura per farm cambiar intenzione Adesso mi famio alzare alle 4 dr mattina olle 10 di sra per dispetto ma a me non mi impo'ta il signore ci pensera.

3794

Se voi non credete che is ho fatto questa confessione potete domandore le sequenti person: Umberto Picciotti e Giuseppe Bernardo che soni giu nella stessa compagnia che quando is rifiuto la stecca tutta la compagnia grizavario contro di me circa 185 persons contro di me ed io ho stats sempre col dire: I do not want to take the stick because it means to kill the Humanity thas against the Lord's comendamenta.

Dippu caro fratello non soche cosa mi fors ancora adesso tutti gli ufficiao sono contri di me non uni givordono piu famio grielle che voglione il signore oi pensora.

3795.

Pregavi di far publicar questania confessione, ol secondo numero del W. T.

Non lio augora ricevuto il W. T. giu nel campo forse l'orvete mandate a Wilmington?

Ors non ho piu che cire avrei tauto dire nia non posso speganui tanto bene con la lettera vorei patlarti

3796

Government's Exhibit 30

avvoce e di poter raccontarti tutti quelle che im che sto possando.

So hiti tutti i frotelli d classe Italiani e Americani a mi diso il vostro

Off mo Froello per il Signore

(Signed) FRANK D'ONOFRIO,

Company D, 307th M. G. Batt.

Military Branch,

Camp Dix,

Trenton, N. J."

3797

Government's Exhibit 30.

(Same as Govt. Exhibit 22.)

Government's Exhibit 31.

(Copied from Minutes of Watch Tower Bible and Tract Society Board of Directors' Meeting.)

July 17, 1917.

3798 "The following resolution was then offered:

"Whereas the President of the Watch Tower Bible and Tract Society has this day made a statement in writing before the undersigned, who are now members of the Board of Directors, setting forth his acts done and performed since the death of Brother Russell, and his election as President;

"And Whereas, it is the sense of this Board that the President should prepare and publish, for the benefit of the Church at large, a statement of facts concerning his said activities;

"And Whereas, it is well known that opposition has arisen against the President;

"And Whereas, we have heard a statement at length by Brothers Rutherford, Hirsh, Hoskins, Wright, Ritchie, MacMillan, Van Amburgh, Bauerlein and others:

"And Whereas, it appears from the facts brought before us that Brothers I. F. Hoskins, R. H. Hirsh, A. I. Ritchie and J. D. Wright have not been legally members of the Board of Directors of the Watch Tower Bible and Tract Society for more than six months prior thereto, and are not now members thereof, and the necessity having arisen for a full and complete Board of Directors; and the President, acting under the power and authority conferred upon him by the terms of the Charter and the laws of the State of Pennsylvania, has appointed four members to complete said Board;

3800

"Now therefore be it Resolved, that we, the undersigned members of the Board of Directors, do hereby express our hearty approval of the acts and conduct of our President, and General Manager and Executive officer of the Watch Tower Bible and Tract Society, which duties we desire him to continue; and we take this occasion to express our utmost confidence in him as a brother and servant in the Lord, and to commend him, with loving prayers and assurance of our support, to all who love our dear Pastor Russell and who believe that he was sent to be the guide of the Church to the end of her way;

3801

"And be it further Resolved, that the President be, and he is hereby requested to prepare a full statement of the facts leading up to the conditions now existing in the work at Brooklyn; and a full statement of the necessity arising for the appointment of members of the Board of Directors and why the same is done;

3802

Government's Exhibit 32

and such other facts as may be necessary in this connection for the good and welfare of the Church at large; and that said statement be published if deemed necessary.

"In the name of the Master of the Harvest, our Lord and Savior Jesus Christ, Amen.

Brooklyn, New York, July 17, 1917.

"(Signed) A. N. PIERSON

"(Signed) W. E. SPILL

"(Signed) W. E. VAN AMBURGH

"(Signed) J. A. BOHNET

3803 "(Signed) A. H. MACMILLAN

"(Signed) GEO. H. FISHER

"It was moved and seconded that the resolution be adopted and spread upon the minutes of the Society. Motion carried, and Resolution signed by all the members of the Board.

Government's Exhibit 33.

Brooklyn, N. Y., Bethel Home,
July 17, 1917—9:30 A. M.

3804

Pursuant to the call of the President, J. F. Rutherford, for a meeting of the Board of Directors of the Watch Tower Bible & Tract Society, to be held at the Bethel Home 9:30 A. M., July 17th, the following members were present: Brothers J. F. Rutherford, A. N. Pierson, W. E. Van Amburgh, A. H. MacMillan and George H. Fisher, W. E. Spill and J. A. Bohnet. The President called the meeting to order. Prayer by Brother Van Amburgh.

The President stated that he had inquired of Brother A. I. Ritchie if the date of July 17 would be convenient

for Brothers Ritchie, Wright, Hoskins and Hirsh, and was informed verbally that the 17th would be acceptable, and, probably, a preferable date. Written notices had then been sent by mail to Brothers A. I. Ritchie, I. F. Hoskins, J. D. Wright and R. H. Hirsh; but he had a written statement from Brothers Ritchie, Hoskins, Wright and Hirsh that they would not attend the session on that date.

The President then stated that peculiar conditions had arisen which had made necessary certain action upon his part. He also submitted legal brief from an eminent authority and the Articles of Incorporation of the Watch Tower Bible & Tract Society and of the People Pulpit Association; also referred to statements made by various brethren to him personally. He further stated that, acting under the authority conferred upon him by the charter of the Watch Tower Bible & Tract Society and the laws of Pennsylvania, he read the following:

3806

"Whereas, the charter of the Watch Tower Bible & Tract Society corporation existing under the laws of Pennsylvania provides for a board of directors consisting of seven members, three of whom the law requires shall be residents of Pennsylvania; and

3807

"Whereas, there is now, and for more than six months has been, only three members of said Board of Directors, to wit, J. F. Rutherford, President, A. N. Pierson, Vice-President and W. E. Van Amburgh, Secretary and Treasurer, who were elected to their respective offices by the shareholders at the annual meeting thereof held according to law in Allegheny County, Pennsylvania, January 6, 1917, and who, by virtue of their said election and the terms of the said charter, are members of the Board of Directors; and

"Whereas, A. I. Ritchie, J. D. Wright, Isaac F. Hoskins and R. H. Hirsh, who have assumed to act as members of said Board of Directors, are not in law nor in fact members of said board, but that there is now and for a long time has been four vacancies on said Board of Directors; and

"Whereas, the charter of said corporation provides, that where a vacancy occurs in said Board of Directors the remaining members thereof may within twenty days thereafter meet and fill such vacancy, and failing to do so for a period of thirty days, then the duty and the obligation devolves upon the President of the Corporation to appoint some suitable person or persons to fill such vacancy or vacancies; and

"Whereas, there are now four vacancies on said Board, as aforesaid, which vacancies have existed for a period of more than thirty days and the remaining members of said Board of Directors have not filled such vacancies;

"Now therefore know all men by theses presents, that I, J. F. Rutherford, President of said Watch Tower Bible & Tract Society, by virtue of the power and authority conferred upon me by the Charter of said Corporation and of the laws of the Commonwealth of Pennsylvania, have appointed and by these presents do hereby appoint the following named persons, at least three of whom are residents of the State of Pennsylvania, to fill such vacancies on said Board of Directors, to wit: W. E. Spill, Pittsburgh, Pa., J. A. Bohnet, of Allegheny County, Pa., George H. Fisher, of Scranton, Pa., and A. H. MacMillan, of Brooklyn, N. Y., as members of said Board of Directors, each to hold office as provided by the Charter of said Corporation and the laws of Pennsylvania.

"Given under my hand at Pittsburgh, Allegheny County, Pennsylvania, this 12th day of July, A. D. 1917.

(Signed) J. F. RUTHERFORD,
President of Watch Tower
Bible & Tract Society.

State of Pennsylvania }
County of Allegheny } ss:

On this 12th day of July, 1917, before me personally appeared J. F. Rutherford, to me known and known to be the person who executed the foregoing instrument, and acknowledged that he executed the same as president of said corporation, in my presence, for the purposes therein mentioned.

3812

(Signed) L. H. McCABE,
Notary Public.

Witness my hand and official seal
the day and date last above written.

(Commission Expires January 19, 1919)."

He then produced letters as follows, from Brothers J. A. Bohnet, George H. Fisher, W. E. Spill and A. H. MacMillan, originals of which are on file with the Secretary:

3813

N. S. Pittsburgh, Pa., July 12, 1917.

Mr. J. F. Rutherford,
Brooklyn, N. Y.

Dear Brother Rutherford:

I write to inform you that I hereby accept the appointment as a member of the board of directors of the Watch Tower Bible and Tract Society, and agree to a meeting of the board to be held at Brooklyn, N. Y., on July 17, 1917.

Faithfully yours,

J. A. BOHNET.

3814

Government's Exhibit 32

Scranton, Pa., July 14, 1917.

Hon. J. F. Rutherford,
 Pres. Watch Tower Bible & Tract Socy.,
 Brooklyn, N. Y.

Dear Brother:

In answer to yours of 12th July, I accept, as the will of our Lord, the appointment of which you notify me as a member of the board of directors of the Watch Tower Bible & Tract Society. In the name of our dear Lord and Redeemer,

3815

Yours in Him

GEO. H. FISHER.

July 17, 1917.

Mr. J. F. Rutherford,
 President of the Watch Tower
 Bible & Tract Society,
 Brooklyn, New York.

Dear Brother:

3816

I Hereby accept the appointment as a member of the Broad of Directors of the Watch Tower Bible and Tract Society.

W. E. SPILL

July 17, 1917.

Mr. J. F. Rutherford,
President of the Watch Tower
Bible & Tract Society,
Brooklyn, New York.

Dear Brother:

I hereby accept the appointment as a member of the Board of Directors of the Watch Tower Bible and Tract Society.

A. H. MacMILLAN.

3818

He further produced written statement signed by Brothers W. E. Spill, J. A. Bohnet and George H. Fisher, consenting to the holding of a meeting of the Board of Directors of the Watch Tower Bible & Tract Society at 124 Columbia Heights, Brooklyn, N. Y., the 17th day of July, 1917, (Original paper on file with the Secretary). Copy follows herewith:

"We, the undersigned, W. E. Spill, of Pittsburgh, Allegheny County, Pennsylvania, and J. A. Bohnet, of Allegheny County, Pennsylvania; and George H. Fisher, of Scranton, Pennsylvania, members of the Board of Directors of the Watch Tower Bible and Tract Society hereby consent to the holding of a meeting of said Board at 124 Columbia Heights, Brooklyn, New York, on the 17th day of Jul, 1917.

3819

"(Signed) W. E. SPILL

"(Signed) J. A. BOHNET

"(Signed) GEO. H. FISHER."

He also produced written statement signed by Brothers J. F. Rutherford, A. N. Pierson, A. H. MacMillan and W. E. Van Amburgh, consenting to the

holding of a meeting of the members of the Board of Directors of the Watch Tower Bible & Tract Society at 124 Columbia Heights, the 17th day of July, 1917. Copy herewith (original on file with the Secretary):

3821 "We, J. F. Rutherford, W. E. Van Amburgh and A. H. MacMillan, of Brooklyn, New York; and A. H. Pierson, of Cromwell, Conn., members of the Board of Directors of the Watch Tower Bible & Tract Society, do hereby consent to the holding of a meeting of said Board of Directors, to 124 Columbia Heights, Brooklyn, New York, on the 17th day of July, 1917.

"(Signed) J. F. RUTHERFORD

"(Signed) A. N. PIERSON

"(Signed) A. H. MACMILLAN

"(Signed) W. E. VAN AMBURGH."

The President made the following report as to some of his activities as President and Manager:

"Dear Brethren:

It seems due to you that I make a report of my activities since the management of the Society has been placed in my hands.

3822 After Brother Russell's departure it was exceedingly difficult for anyone to take up matters where he had left off, because he had peculiar knowledge of the affairs of the Society that no one else possessed. I fully realized this, for I had been closely associated with him for many years as counsel. I would not speak of these matters but it is due you, under the peculiar circumstances that have arisen; and because of this the following matters are here mentioned:

"At the time of Brother Russell's death there was a certain matter left unfinished which meant an immediate loss to the Society of some \$11,000.00 unless certain action was taken forthwith. I took the neces-

sary action at once and was successful in saving the Society that amount in cash.

"A certain paper company with which the Society held a contract attempted to repudiate that contract by placing a certain construction upon its terms, and refused to carry out its obligations with the Society. I took the matter up with the Paper Company personally, which after considerable effort, resulted in a saving to the Society of some \$14,000.

"There was an outstanding contract at this time which involved the Society in a large sum of money, the other party claiming damages from the Society in the sum of \$32,000.00. The prospects of saving any of this money were very poor. The parties, with their attorneys, called upon us demanding the money, and after three strenuous sessions, by the Lord's grace, I was able to get the matter adjusted, with a saving to the Society of over \$26,000.00.

3824

"In the month of January, last, there came on for trial in the City of New York a suit against the Society involving taxes upon the Bethel Home and the New York Temple covering several years involving upwards of \$22,000.00. After a long and strenuous effort, assisted by other counsel, this case was won for the Society.

3825

"In the above matters there was saved for the Society in actual cash the sum of \$51,000.00, and in addition thereto the tax case was decided in our favor, which may result in a further saving of some \$20,000.00 for the Society.

"Brother Wilson of Iola, Kansas, having died leaving some property to the Society, his heirs contested the Will. After taking depositions in Virginia and Florida, I Succeeded in adjusting this matter, thereby recovering more than \$5,000.00 for the Society.

"In Los Angeles, California, there was instituted

a law suit against Brothers Scott Anderson and Homer Lee in which wrongful charges were made against the International Bible Students Association and Brother Russell's good name. In the month of February, last, I went to Los Angeles and, taking advantage of the conditions in the case, I filed an answer setting forth an epitome of the entire Divine Plan of the ages which our dear Brother has been teaching for years. This became a part of the Court records which probably has never been done in any other case anywhere. The case was decided in favor of our brethren and has resulted in a great witness for the Truth in Southern California.

3827

"In the month of March Brother P. S. L. Johnson instituted a law suit in the High Court of London, England, tying up all the finances of the Society there. Upon receipt of information by cable as to what had taken place, I directed a course of action which resulted in a decision in this case in our behalf. The costs in the case amounted to more than \$700.00, and \$200.00 of which Brother Johnson paid from money which he wrongfully took from the safe of the Society at its London Branch. The other \$500.00 his Solicitor was required to pay. Brothers Hirsh, Hoskins and Wright advocated before the Board the payment of this \$500.00 by the Society, after the High Court of London had decided that it must be paid by the Solicitor according to law, because of information and evidence from the Society's President that the suit had been instituted without authority.

3828

"I beg to submit that the office management is in far better shape than it has been in for a long time. A short while before our dear Brother Russell's death, he removed Brother Ritchie as manager of the office, and placed Brother Martin in his place. Brother Russell also appointed Brother Macmillan as Presi-

dent's Assistant. Furthermore, he took Brother Hoskins out of the Colporteur Department, and directed Brother Macmillan to institute a general reformation in the office; but Brother Russell died before putting into operation all changes which he had in mind. Since then, however, his wishes have been faithfully carried out, the office now being on an efficiency basis and the work is being carried on quite successfully, but with a decreased office force.

"As is well known to all, Congress passed a Conscription Act, and considerable time has been required by me in the examination of this Act and in giving advice to inquiring brethren throughout the country. I made a visit to the War Department at Washington, and after a personal interview gained favorable concessions for the Society and our brethren. My personal correspondence has been greatly increased because of the Conscription Act, and for several months has required the services of two stenographers.

3830

"Being a lawyer by profession, and glad to serve the brethren in any way I can, I have had considerable work in advising the brethren regarding their personal affairs, in all parts of the country and abroad.

"I have held at least two meetings every Sunday, and sometimes three, as well as speaking at other times as opportunity has afforded.

3831

"In general, I have endeavored to acquaint myself with every part of the work in this country and in foreign lands, and to do all in my power to aid the same.

"It seemed good to the Lord to have the Seventh Volume prepared and two faithful brethren, Brothers Woodworth and Fisher, did this work, other faithful ones assisting in the mechanical part of it. I have read considerable manuscript and printers proofs while traveling on the trains. When time came for publishing this work, we were in the midst of much opposi-

tion; and, knowing that to consult the opposers would hinder the publishing of the volume, I took counsel with Brothers Van Amburgh, Macmillan, Martin and Hudgings of the office force. After praying over the matter, the Lord seemed to open the way so that the opposition might not interfere. A certain brother, without solicitation, placed in my hands the necessary money with which this book should be published, and the Lord's favor seeming to be upon it and the publication was undertaken; and now, by the Lord's grace, we have had a small bit in aiding other brethren throughout the world by placing with them this last heritage of our beloved Brother and Pastor the dear Israel of God.

3833

"In all these matters I have tried to act faithfully, and it must be conceded by everyone who is acquainted with the operations of business that to have taken into my confidence the Brothers Hirsh, Hoskins, Ritchie and Wright would have been disastrous to the Society and its work. Subsequent facts prove that this is true. I am now in receipt of a letter from Brother Work of Philadelphia, in which he states that Brothers Hirsh and Hoskins have appeared before the Philadelphia congregation and stated that money amounting to some \$200,000.00 has been kept in the office safe. If this were true, that such an amount was in the safe here, anyone who pretends to be on the Board of Directors and who would disclose that fact would thereby prove that he is an unsafe person to be consulted with in confidence about anything.

3834

"What little I have done, I have accomplished, of course, by the Lord's grace, and I am sure I have had no personal ambitions in it. I would have preferred to have kept this matter all to myself, as Brother Russell always did, but the necessities of the case seem to require otherwise. I am glad to submit my case to the

Lord, knowing He is merciful and judges my imperfections lovingly. I am glad I do not have to submit to the judgment of any earthly creature. In the language of the dear Apostle Paul, "I count not my life dear unto myself"; and having put forth an effort to do my best I respectfully submit the matter and patiently await the verdict of the Lord. I call upon the officers and Board of Directors of the Watch Tower Bible & Tract Society, in the interests of the cause which we love dearer than this life, to aid in holding together the truly consecrated and in putting down this uprighteous religion which has arisen amongst us.

3836

"Humbly submitted,
"(Signed) J. F. RUTHERFORD."

Following this a resolution was presented to the Board. Owing to the lateness of the hour, adjournment was then taken until 8:00 P. M.

8:00 P. M.—Continued adjourned meeting with all the members present. Further discussion of the resolution followed: The following resolution was then offered:

3837

"Whereas, the President of the Watch Tower Bible and Tract Society has this day made a statement in writing before the undersigned, who are now members of the Board of Directors, setting forth his acts done and performed since the death of Brother Russell, and his election as President;

"And Whereas, it is the sense of this board that the President should prepare and publish, for the

benefit of the Church at large, a statement of facts concerning his said activities:

"And Whereas, it is well known that opposition has arisen against the President;

"And Whereas, we have heard a statement at length by Brothers Rutherford, Hirsh, Hoskins, (Wright, Ritchie, Macmillan, Van Amburgh, Baerlein and others;

3839

"And Whereas, it appears from the facts brought before us that Brothers I. F. Hoskins, R. H. Hirsh, A. I. Ritchie and J. D. Wright have not been legally members of the Board of Directors of the Watch Tower Bible and Tract Society for more than six months prior thereto; and are now new members thereof; and the necessity having arisen for a full and complete Board of Directors; and the President, acting under the power and authority conferred upon him by the terms of the Charter and the laws of the State of Pennsylvania, has appointed four members to complete said Board;

3840

"Now, Therefore, be it Resolved, that we, the undersigned members of the Board of Directors, do hereby express our hearty approval of the acts and conduct of our President and General Manager and Executive Officer of the Watch Tower Bible and Tract Society, which duties we desire him to continue; and we take this occasion to express our utmost confidence in him as a brother and servant in the Lord, and to commend him, with loving prayers and assurance of our support, to all who love our dear Pastor Russell and who believe that he was sent to be the guide of the Church to the end of her way;

"And be it further Resolved, that we believe that our dear Brother Rutherford is the man the Lord has

chosen to carry on the work that yet remains to be done in Pastor Russell's name and in the name of the Lord; and that no other in the Church is as well qualified as he is to do this work; or could have received at the Lord's hand greater evidences of His love and favor.

"And be it further Resolved, that the President be, and he is hereby requested to prepare a full statement of the facts leading up to the conditions now existing in the work at Brooklyn; and a full statement of the necessity arising for the appointment of members of the Board of Directors and why the same is done; and such other facts as may be necessary in this connection for the good and welfare of the Church at large; and that said statement be published if deemed necessary.

3842

In the name of the Master of the Harvest, our Lord and Savior Jesus Christ, Amen.

"Brooklyn, New York,

"July 17, -1917.

"(Signed) A. N. PIERSON

"(Signed) W. E. SPILL

"(Signed) W. E. VAN AMBURGH

"(Signed) J. A. BOHNET

"(Signed) A. H. MACMILLAN

"(Signed) GEO. H. FISHER."

3843

It was moved by Brother Spill and seconded by Brother Bohnet, that the Resolution be adopted and spread upon the minutes of the Society. Motion carried, and Resolution is signed by all members of the Board.

Adjournment then taken until 8:00 A. M., July 18th.

8 A. M. July 18th, 1917.

3845

Adjourned meeting—all the members of the Board present. Brother Rutherford stated that he had received a communication from Brother W. M. Hersee of Woodstock, Ontario; that the Brother has been a heavy contributor to the Tract Fund and had been very zealous in his loyalty and support of the work of the Society, but that, owing to financial conditions which he had not anticipated, he was at present in need of some aid and asking, if it were possible to receive some from the Society. He further stated that during the management of Brother Russell, Brother Hersee had been assisted several times under similar conditions. Following some discussion to the effect that the services of Brother Hersee had been much appreciated by the Society, it was moved by Brother Macmillan, and seconded by Brother Pierson, that Brother Hersee be placed upon the regular Pilgrim list and an allowance of \$50.00 per month be made for the sustenance of his family until further action.

3846

The question of future regular monthly meetings of the Board was discussed, and it was decided to hold the next regular meeting on August 6th, unless otherwise called by the President. The Secretary was asked to notify each member by card, or personally, prior to said meeting, that there might be a full attendance of the Board. There being no further business, motion was then made to adjourn until the next meeting, Monday, August 6th. Carried unanimously.

W. E. VAN AMBURGH.

Government's Exhibit 33A.

3847

Nelsonville, Ohio.

2nd—6—18.

Dear Brother

If I am not intruding upon your precious time and if it were possible for you to do so, I would like advice about the Draft Law. The fact of the matter is that I come under the Draft Act and registered last June also have filled my Questionnaire with the Local Draft Board makeing claim for dependency being the only support of my mother. But the claim was ignored therefore I appealed to the District Board and have not as yet heard from them. I have always been a faithful Reader after Pastor Russell and for the last two years or so have been opposed to war. But since receiving the Seventh Volume I feel more convinced than ever that Militarism is wrong and that it would be a sin to fight for these Kingdoms knowing that they must fall. Now I am not a consecrated Christian yet I have always counted myself as one of you, and so stated it in the questionnaire. But did not make any claim for exemption on that ground. I have talked with some of the Brothers here and they advise me to just use my own judgment in the matter. I am willing to obey the Powers that be as long as they do not conflict with our Duty to our God, therefore I pray that you may help to show me what my Duty is and I know it being God's will he will help me do it. Thanking you for a few words that may help me to a better understanding of my Duty, I remain

3848

3849

Your Brother in the Truth,

WINFORD JOHNSTON,

209 Madison St.,

Nelsonville, O.

3850

Government's Exhibit 33B.

February 11th, 1918.

Mr. Winford Johnston,
209 Madison St.,
Nelsonville, Ohio.

Dear Brother:

We reply to your letter of the 6th of February.

3851

For one who understands the Lord's plan and has seen some of the goodness and power of God we could not make any other suggestion than for you to present yourself to Him in full and complete consecration. The Lord is very courteous, and will not force his protection or special interest upon any who do not indicate their desire to have it.

3852

However, if on counting the cost you find your faith unequal to the step, but find that you love the Lord some and desire to do righteously, we suggest that you follow your conscientious scruples. This will mean strengthening and upbuilding of character, which is always appropriate and in order. While the law makes no provision for exemption of those who have conscientious scruples against war and who are not definitely identified as members of some religious organization whose tenets forbid participation in war, still the individual treatment would probably be very much the same, since consecrated believers are seldom recognized as such.

Very truly your brethern in the Lord,
FHR/Z.

Government's Exhibit 34.

3853

State of New York, }
County of Kings } ss

I, J. F. Rutherford, do solemnly swear that I am now and was on the 18th day of May, 1917, President of the International Bible Students Association and of the Peoples' Pulpit Association, which institutions conduct a school of instruction for divinity students at 122 Columbia Heights, Brooklyn, New York, and is the school mentioned in the answer to Question No. 11 of

hereto attached, and that I know of my own personal knowledge that the answers given by the said

3854

to the Questions No. 1 and 11, in

series five, Divinity Students of the Questionnaire, are true, and that so much of question No. IV of said question as relates to the school mentioned in answer to No. 11 are true. I further state that at said

school on May 18th, 1917, and are now occupying ten instructors and teachers; that I am the President of head of such Associations and School of Instruction, and that W. E. Van Amburgh, A. H. MacMillan, R. J. Martin and others were instructors of said school on May 18th, 1917, and are now occupying such position. I further state that there is conducted upon said premises every day in the week except Sunday, classes for instruction in the bible, and Bible literature, history, etc. and that three times each day there are open discussions and lectures on Bible questions and Bible literature.

3855

Affiant further states that the International Bible Students Association is the name whereby and under which the religious work or teaching is carried on throughout the entire world, particularly in Europe, Canada and America; that the Peoples Pulpit Association was incorporated and organized in 1909 under

3856

Government's Exhibit 34

the membership corporation Law of the State of New York and which conducts a portion of the work for said International Bible Students Association in and for the State of New York; that it was necessary to organize the People's Pulpit Association in order to meet certain legal requirements in the State of New York; that the purpose of said organization as set forth in its charter are as follows, to wit:

3857

"The corporate purposes are charitable, benevolent, scientific, historical, literary and religious purposes, and for the purpose of maintaining and conducting classes for the gratuitous instructions of men and women on the premises or by mail in the Bible, Bible literature and Bible history, and for the gratuitous teaching, training and preparing men and women as teachers and as lecturers on the Bible, and preachers of the Gospel and to provide and maintain a home, building or buildings for the housing, sheltering and boarding of such students, lecturers, teachers and ministers, etc. and to send out to the various parts of the world religious missionaries, teachers and instructors in the Bible and Bible literature."

3858

I further state, that to my personal knowledge the said
has for the past three years been a student in such institution, and is now, and was on and prior to the 18th day of May 1917, such Divinity student.

J. F. RUTHERFORD.

Address

Subscribed and sworn to before me
this day of 1918,

State of New York, County of Kings.

Government's Exhibit 35.

3859

To the Chairman of the
Local Exemption Board.

Dear Sir:

Under the terms of the Selective Draft Act I was selected and examined by your Board. I was given Serial no. . Following the provisions of the law, and within due time, I filed a claim for discharge before your Board, supported by the affidavits the law requires. I based my claim for discharge upon the ground

That I am a member of the International Bible Students Association, which is a well recognized and duly organized religious organization and has been such for more than thirty (30) years, and the creed or principles of which forbid its members to engage in war in any form.

3860

In the usual course you took up my application and denied it. In due time I appealed to the District Board, which Board affirmed the decision of the Local Board, and now I am called to report for military duty.

The Congress of the United States, expressing the voice of the people, placed a provision in the Selective Draft Act to the effect that no person should be compelled to engage in the military service who at and prior to the passage of said Act was a member of a well recognized religious organizations, the creed or principles or teachings of which forbid its members to engage in war or which are against war in any form.

3861

The evident purpose of this law was and is to protect all who are members of such religious organizations described in the Act. The proof in my case is all one way, and is not disputed. Why the Board disregarded my claim I do not know, since no reason is assigned.

3862

Government's Exhibit 35

3863

I recognize that it is the duty of every person to abide by the laws of the land, but when those laws are disregarded by the men having the obligation to execute them, or when such laws are used in an oppressive manner in utter disregard of civil and religious rights, then for one to refuse to obey the commands of the officers, is not a violation of the law. I owe an allegiance to my Heavenly Father and to the Lord Jesus Christ, my Redeemer, that is higher than the allegiance to any institution on earth. My Lord commands that I shall not kill, nor shall I be a party to the taking of human life, either directly or indirectly. I recognize it as my first obligation to obey the Lord.

3864

I must therefore respectfully decline to obey any order to report for military duty. If I am arrested and incarcerated in prison or put to death for taking this stand, then the responsibility for my suffering or death rests and will rest upon those men who have violated the letter and the spirit of the law of the land by disregarding its plain provision, and some day before the judgment seat of the Lord they will have to answer for it. I am unalterably determined that I shall not deviate from this course, and that I will not under any circumstances engage in warfare in any form, let the consequences be what they may.

Very respectfully,

Government's Exhibit 36.

3865

Our only printed forms are as follows:—

Letter to drafted brother—Aug. 8.

Letter to Secretary or clerk—Aug. 8.

Claim of discharge from selective draft. Form 121.

Affidavit of person whose discharge is sought. Form 143.

Affidavit of clerk or minister in support of claim. Form 143a.

Additional affidavit by Brother Van.

Claim of appeal by person certified to District Board. Form 153.

Notice of claim of appeal by person certified to District Board—Form 151.

3866

Letter of appeal to Governor of State.

Notice to Chairman of Local Board.

* * * * *

Instructions to registrants filing Questionnaires.

Instructions re physical examination. ((Sample)

Instructions in case appeal is denied. (Sample)

Affidavit of regular minister of religion. Form 114. (Sample).

Affidavit of head of family in support of above. Form 114a. (Sample)

Affidavit of head of family in support of above. Form 114b. (Sample)

3867

3868

Government's Exhibit 87.**Page 35**

Local Board Serial No.....
 (Insert designation of same as directed by section
 3 of Registration.)

FORM 121

Prepared by Provost Marshall General.

Form to be used when person claiming discharge files
 claim himself.

3869

**CLAIM OF DISCHARGE FROM SELECTIVE
 DRAFT**

I, (*John Jones*)

Serial No.....

(Insert serial number
 as appears on notice for
 physical examination)

hereby certify that I am.....years old and reside
 at

(State city and state)

I hereby respectfully claim discharge from Selective
 Draft on the following ground, that I am:

3870

Instruction: Place a cross (X) before grounds of
 discharge relied upon.

(a).....County or Municipal Officer.

(The term "county or municipal officer" is
 defined by the rules and regulations promul-
 gated under the Selective Service Act to be
 any county or municipal officer, including
 therein officers of townships, cities, bor-
 oughs, parishes, towns and villages, who has
 been elected to his office by popular vote,
 and whose office may not be filled by ap-
 pointment for an unexpired term.)

(b).....A custom house clerk of the United States.

(c).....A person employed by the United States in the transmission of mails.

(d).....An artificer or workman employed in an arsenal, army or navy (strike out the words not applicable) yard of the United States.

(e).....An employee in the service of the United States, necessary to an adequate and effective operation of a department, commission board, bureau, or division or branch of the government.

(f).....A licensed pilot.

3872

(g).....A mariner actually employed in the sea service of a citizen or merchant within the United States.

(h).....A person having dependent upon his labor for support (Mark with a cross (X) one of the following sub-classes.)

(1) A married man with wife or child dependent upon his labor for support.

(2) A son of a widow dependent upon his labor for support.

(3) A son of aged or infirm parent or parents dependent upon his labor for support.

3873

(4) A father of a motherless child under 16 years of age dependent upon his labor for support.

(5) A brother of a child (or children) under 16 years of age who has (or have) neither father nor mother and is (or are) dependent upon his labor for support.

(i).....A person who was a member of a well-recognized religious sect or organization, organized and existing May 18, 1917,

3874

Government's Exhibit 37

whose then existing creed or principles forbade its members to participate in war in any form and whose religious convictions are against war or participation therein in accordance with the creed or principles of said well recognized religious sect or organization.

(j).....A person convicted of a felony.

3875

.....
(Signature of person claiming discharge for himself.)

Address

Dated at.....of.....191

(The following appears on the back of the above blank)

IMPORTANT INSTRUCTIONS:

3876

A claim for discharge from Military service is to be filed with the same Local Board by which the person was notified to appear for physical examination. The claim must be filed with said Local Board on or before the 7th day after the mailing by the Local Board of such notice to the person sought to be discharged, to appear for physical examination.

This form is to be used where claim for discharge is made by the person himself claiming discharge for himself. When a claim is made by some other person in respect of the person sought to be discharged use form No. 122.

Where more than one ground for discharge is relied on, each claim must be made on separate forms and filed at the place and within the time above specified.

Page 138

Local Board Serial No.....

FORM 143

Prepared by Provost Marshall General

FORM OF AFFIDAVIT SUPPORTING CLAIM
FOR DISCHARGE BY OR IN RESPECT TO
A MEMBER OF A WELL RECOGNIZED RE-
LIGIOUS SECT OR ORGANIZATION WHOSE
EXISTING CREED OR PRINCIPLES FORBID
ITS MEMBERS PARTICIPATING IN WAR IN
ANY FORM.

3878

AFFIDAVIT OF PERSON WHOSE DISCHARGE
IS SOUGHT.

STATE OF.....

County of.....to-wit:

I,.....do solemnly swear
that I amyears old and reside at
(Give full address)

and that Serial No.....was given me by the Local
Board (here insert official designation and address of
Local Board) and that claim for my discharge was
filed with said Local Board on theday of
....., 1917, on the ground that I was a person
who was a member of a well recognized religious sect
or organization, organized and existing May 18, 1917,
whose then existing creed or principles forbade its
members to participate in war in any form and whose
religious convictions are against war or participation
therein, in accordance with the creed or principles of
said well recognized religious organizations.

3879

3880

Government's Exhibit 37

I do further solemnly swear that I am a member in good faith and good standing of the.....

.....
(State fully name of well recognized religious sect or organization of which he as a member now claims discharge) which on the 18th day of May, 1917, was organized and existing as a well recognized religious sect or organizations, whose existing creed or principles forbade its members to participate in war in any form.

3881

I do further solemnly swear that my religious convictions are against war or participation therein in accordance with the creed or principles of said religious organization.

I do hereby bind myself to report in person and to notify said Local Board at once whenever the conditions that entitled me to discharge cease to exist.

.....
Address:

Subscribed and sworn to before me

this.....day of....., 191

.....

3882

Notary Public, State of

County of

Serial No.....

Local Board

Address

(Here insert designation by stamp according to sec. 3
of Regulations)

Form No. 151, prepared by the Provost Marshal
General.

NOTICE OF CLAIM OF APPEAL BY PERSON CERTIFIED TO DISTRICT BOARD.

To District Board

(Here insert designation by stamp according to sec.
33 of Regulations)

Address

I,
(Name) (Address)

hereby give notice that on the day of 3884
(day)

....., 191 I filed with
(Month)

Local Board

(Insert designation according to sec. 3 of Regulations)

....., a
(Address)

claim of appeal to your Honorable Board from the
decision of the said Local Board,

*

.....

.....

.....

.....

.....

.....

(Name of person claiming appeal)

.....

(Address)

N. B.—This notice of claim appeal must be filed
with the District Board to whom it is addressed within
10 days after the mailing of the notice to the person
that he has been certified to the District Board.

3886

Government's Exhibit 37

*Specify in the blank lines the nature of the decision of the Local Board appealed from, whether relating to claim of exemption or discharge, or to physical fitness or unfitness for military service.

Serial No.....

Local Board
 (Here insert designation by stamp according to sec 3
 of Regulations)

Address

3887

Form No. 153, prepared by the Provost Marshal General.

CLAIM OF APPEAL BY PERSON CERTIFIED TO DISTRICT BOARD.

To Local Board
 (Here insert designation by stamp according to sec. 3
 of Regulation.)

Address

I,

(Name) (Address)

3888 now hereby claim an appeal to the District Board for

.....
 (Here insert designation according to sec. 33 of Regulations)

*

.....
 (Name of person claiming appeal)

.....
 (Address)

*Specify in the blank lines the nature of the decision of the Local Board appealed from, whether relating to claim of exemption or discharge, or to physical fitness or unfitness for military service.

(Letterhead of Watch Tower Bible & Tract Society.)

District Board for the City of New York.

Last year we had sixty-nine of these brethren on the road for all or part of their time during which they visited 6575 towns, held 1507 public meetings, 3124 semi-public instruction meetings, 9221 meetings for class instruction. Last year our Society put out over 598,000 pounds of printed matter, distributed free. No other religious society in the world has ever attempted the like. A large part of our preaching is through the printed page. The above amount of paper is equal to sixteen large car-loads. We also carry on a very large correspondence department, as is evident by the fact that last year we received over 134,000 letters from all parts of the world.

3890

We hold many conventions every year in all parts of the United States, Canada and other countries. Announcements of some of these you will notice on the second page of the journal herewith. Others have already been held; and yet others to be held. Please notice also the last page of the Journal herewith, containing notice of over 200 appointments of our traveling representatives throughout the United States and Canada. This work is carried on throughout the year. Thus you can easily see that this is a movement of no small magnitude, and is recognized as a well-known religious organization. This work has been carried on for the last thirty years.

3891

We trust therefore, that you will re-consider this application in the light of the above facts.

3892

Government's Exhibit 37

Assuring you of our appreciation of any favor which you may extend to our Brother

We remain,

Very truly yours,

INTERNATIONAL BIBLE STUDENTS
ASSOCIATION,

Per: W. E. VAN AMBURGH,
American Secretary.

Form 143.

Affidavit of Person Whose Discharge is Sought.

3893

State of New York,

County of

, to-wit:

I, _____ do solemnly swear I am _____ years old and reside at _____ and that Serial No. _____ was given me by Local Board _____ and that claim for my discharge was filed with said Local Board on the _____ day of _____ 1917, on the ground that I was a person who was a member of a well recognized religious sect or organization, organized and existing May 18, 1917, whose then existing creed or principles forbade its members to participate in war in any form and whose religious convictions are against war or participation therein, in accordance with the creed or principles of said well organized religious organization.

3894

I do further solemnly swear that I am a member in good faith and good standing of the International Bible Students Association which, on the 18th day of May, 1917, was organized and existing as a well recognized religious sect or organization, whose existing creed or principles forbade its members to participate in war in any form.

I do further solemnly swear that my religious convictions are against war or participation therein in

Defendants' Exhibit A

3895

accordance with the creed or principles of said religious organization.

I do hereby bind myself to report in person and to notify said Local Board at once whenever the conditions that entitled me to discharge cease to exist.

.....

.....

Subscribed and sworn to before me
this day of January, 1918.

.....

Notary Public,
State of New York, County of.....

3896

Defendants' Exhibit A.

Address all Correspondence to the Company,
Hammond, Indiana
Private wires from all Departments to Chicago Offices
Telephone Randolph 2390 Chicago Offices
Marquette Building

W. B. CONKEY COMPANY

Established 1877

PRINTERS ELECTROTYPERS BOOK MANUFACTURERS 3897

General Office and Works

Hammond, Ind.

June 16, 1917.

Watch Tower Bible & Tract Society,
13 Hicks Street,
Brooklyn, New York.

Gentlemen:

With reference to your new book entitled **THE FINISHED MYSTERY**, which is now in process

3898

Defendants' Exhibit A

of manufacture, we beg of you to advise us at an early date how many of these books will be needed for immediate shipping orders and approximately how many will be shipped the first month. This information will enable us to keep a sufficient amount of books on hand so as to take care of your shipping orders as fast as they are received.

Also, be kind enough to forward or advise us regarding stamping dies for this book. These, as you know, will be needed very soon.

3899

We are holding up your order #8377, for Mr. H. E. Whitcomb, Chicago, as same calls for 10 complete sets of keratol STUDIES in cartons. As we have no cartons on hand that will fit these books and have no orders from you to purchase any, we presume it will be all right to ship them without same, but would like to get your definite instructions before making the shipment.

Very truly yours,
W. B. CONKEY COMPANY
O. B. P.

OBP:CM

3900

June 19, 1917.

W. B. Conkey Co.,
Hammond, Ind.

Gentlemen:

Answering yours of the 16th regarding how many of THE FINISHED MYSTERY we will need forth-

Defendants' Exhibit B

3901

with, we would say it is our expectation to have need of nearly all of them within a few weeks time, or at least 50,000 copies. It will therefore be necessary to make your plans accordingly. We are arranging for a great campaign, with your co-operation and if we can have the book on press by July 1st, and ready for delivery by July 15th, in time for our general conventions to be held in July and August, they will be put in the hands of our friends and colporteurs for immediate action. But we must have the books at these conventions.

The dies will be sent you in about a week.

3902

Yours very truly,

WATCH TOWER BIBLE

& TRACT SOCIETY.

WFH/F

Defendants' Exhibit B.

(Excerpt on p. 236 of The Watch Tower, Vol. 27, No. 14, July 15, 1906.)

To add to our throng, financial complications came; and thus for four years I was hindered from fulfilling my promise of *MILLENNIAL DAWN*. Nor is our promise of the complete set yet fulfilled; for although six volumes are now issued, a seventh on Revelation and Ezekiel is still future: delayed by the growth of the general work, doubtless in accord with the Lord's "due time." But during those four years I struggled through an immense amount of labor and many drawbacks (all *cheerfully* undergone for the sake of the Lord and his saints), each year hoping to be able to gather the hours necessary to complete the first volume of *MILLENNIAL DAWN*.

3903

3904

Defendants' Exhibit C.**ATTENTION I. B. S. A.**

3905

A committee is now engaged in compiling the comments of Brother Russell on Revelation and Ezekiel, to be submitted to the Watch Tower Bible and Tract Society for publication. This committee will be glad to receive from any of the I. B. S. A. members, who are fully consecrated, any comment made by Brother Russell on these two books, other than that contained in the Watch Tower or Studies in the Scriptures. Also their own interpretation of such parts of these books not interpreted by Brother Russell. Such statements should be very brief, legibly written on one side of the paper only, and contain the name and address of the sender.

The book, when published, will contain biographical sketch of Brother Russell, his life as a reformer, and a select number of his sermons.

Please address all such communications to Mrs. G. W. Seibert, Secretary, Hotel Margaret, Brooklyn, N. Y.

3906

Defendants' Exhibit D.

(Article on p. 260 of The Watch Tower, Vol. 36, No. 17, Sept. 1, 1915.)

IN SCRIPTURE STUDIES, Vol. VI, we have set forth a suggestion that the followers of Christ seek by every proper means to avoid participation in war. We there suggested the possibility, but that in the event of conscription the Lord's followers should use all their influence toward obtaining positions in the Hospital Corps or in the Provision Department of the Army, rather than in the actual warfare. We suggested fur-

ther that if it were impossible to avoid going into the trenches, it would still not be necessary to violate the Divine requirement, "Thou shalt do no murder."

We have been wondering since if the course we have suggested is the best one. We wonder if such a course would not mean compromise. We reflect that to become a member of the army and to put on the military uniform implies the duties and obligations of a soldier as recognized and accepted. A protest made to an officer would be insignificant—the public in general would not know of it. Would not the Christian be really out of his place under such conditions?

3908

"But," some one replies, "if one were to refuse the uniform and the military service he would be shot."

We reply that if the presentation were properly made there might be some kind of exoneration; but if not, would it be any worse to be shot because of loyalty to the Prince of Peace and refusal to disobey His order than to be shot while under the banner of these earthly kings and apparently giving them support and, in appearance at least, compromising the teachings of our Heavenly King? Of the two deaths we would prefer the former—prefer to die because of faithfulness to our Heavenly King. Certainly the one dying for his loyalty to the principles of the Lord's teachings would accomplish far more by his death than would the one dying in the trenches. We cannot tell how great the influence would be for peace, for righteousness, for God, if a few hundred of the Lord's faithful were to follow the course of Shadrach, Meshach and Abednego, and refuse to bow down to the god of war. Like those noble men they might say, "Our God is able to deliver us, if He chooses so to do; but if He does not choose to deliver us, that will not alter our course. We will serve Him and follow His direction, come what may."

3909

3910

Defendants' Exhibit E.

338 Madison Ave., Scranton, Pa.,
December 11th, 1916.

Dear Sister Seibert:

Behold the hand of the Lord! For more than twenty years I have had in mind that the only proper title for the Seventh Volume would be "The Mystery Finished" and now you come along and suggest the identical title, with merely a transposition of the words. You are a grammarian and a logician. Think it over and tell me which is the best form of this title. Is our thought chiefly of the mystery, or is it chiefly of the Finish of that mystery? You shall decide, but my present thought continues as before. We have been considering and studying the mystery all the harvest time; and now has come the finish. Is it not so?

3911

I have read your letters to Brother Fisher over the telephone and he is glad to enter the open door, and I, Oh, Glory be to the Name of the dear Lord, I am so happy I can hardly wait the finish of this day to begin the work on which my heart is set. I will mail the letters to Brother Fisher at once.

3912

Nothing was enclosed with my transmission of those letters. It seemed to me I ought not to do more at that time. I merely thought it would strengthen your heart to read them and to feel that you could not be far astray from the blessing of the Lord in doing what you have done. And how wisely you have done it! What a mind you have, and how fully it is the handmaid of the Lord! How happy you must be that the continued faithfulness you have all along shown, is continually recognized by the Lord of the Harvest and that ere long you, too, shall have your desire fulfilled and be folded to the heart of the Lord, as His Bride, even as Brother Russell has already been thus received.

Defendants' Exhibit E

3913

Dear Sister, nothing has ever given me such joy before, for I know the hand of the Lord will be with us all. And the work will really be yours, for it must go to you, and be fully approved by you before it ever goes to the Committee. On that I insist. If you can help me with the summary, which I shall put in as the Seven Plagues, do so, but if not they go in anyway, and come before you for review and edit.

Now can I ask a favor? Do you see your way clear to insert an advertisement in the Labor Tribune, something like the following:

3914

"THE SEVENTH VOLUME.

The Executive Committee have agreed that if a certain arrangement of copy for the Seventh Volume is prepared and submitted to them for their consideration, they will consider it and give their opinion as to the advisability of publication. They make no promise of acceptance or of publication. Like the Steward of the parable, they "Promise nothing." One thing is clear, however, that the publication of the Seventh Volume is near, and that its publication means that the harvest work is at an end. Other Scriptures seem to indicate that the end of the European War must follow its publication. Suggestions of Bible students who have taken the Vow will be considered in the preparation of the Mss. which is to be presented to the Committee for consideration. If out of harmony with Brother Russell's teachings they will not be considered at all. If in harmony, and known to be so by anything the Brother may have said or written, and which is not now generally available, please state the facts. Write legibly, very, very briefly, give full name and address; write on one side of the paper only, and mail such preliminary statement to XYZ, c/o Executive Committee, 124 Columbia Heights, Brooklyn, N. Y."

3915

3916

Defendants' Exhibit H

If this appeals to you, ask the Executive Committee if they will receive and hand to you any mail thus addressed, and you can then send to me such as you think I should have. Does this appeal to you? I hope so.

Your loving Brother,

(Signed) C. J. WOODWORTH.

Defendants' Exhibit H.

3917 No. 79

Brooklyn, N. Y. City, July 12th, 1917.

NASSAU NATIONAL BANK

Of Brooklyn, N. Y.

Pay to the Order of R. J. Martin

Pay \$2500 and 00 cts. Dollars

\$2500 00/xx

A. N. PIERSON

(Endorsed): R. J. Martin Pay to the Order of The
First National Bank of Hammond, Ind. W. B.

3918 Conkey Co. By A. N. Pierson, Mngr.

Defendants' Exhibit I.

3919

**"The Wisdom from Above is the Noblest Science and
Best Instruction"**

WATCH TOWER BIBLE & TRACT SOCIETY

Instituted for Instruction in Bible Study

Nos. 13, 15, 17 Hicks Street

**Incorporated 1881 for the promotion of Christian
Knowledge orally and by printed page "unto all people"**

**School of Christ for the teaching & publishing of the
Word Instruction by mail free "Teach all nations"**

3920

**Scripture Study Helps Supplied at Cost or Furnished
on Loan**

**Branches: London, W., Melbourne, Copenhagen,
Orebro, Christiania, Carmen, Geneva, Yokahama.**

Phone 6361 Mait

Brooklyn, N. Y., U. S. A.

March 16, 1918.

**TO COLPORTEURS, CLASS SECRETARIES AND OTHER
WORKERS IN THE HARVEST FIELD**

3921

Dear Brethren:

Information has reached us that the Department of Justice at Washington holds that, "The Finished Mystery"—Volume VII of STUDIES IN THE SCRIPTURES—contains certain matter that is in violation of the Espionage Act recently passed by Congress. We are fully convinced that it does not contain anything that is in any wise injurious to the Government or a detriment to the prosecution of the war. We are having the book thoroughly examined in the light of this new law and hope to be able to advise you within a short time.

In the meantime, do not offer any copies of the Seventh Volume for sale, or give any away. This will not interfere, however, with the friends meeting at regular class studies and using this as a text-book. But even for this we advise that pages 247 to 253 be removed.

3923

We counsel calmness and sobriety everywhere. Let us wait upon the Lord and watch His leadings. We have hopes that in due time He will open the way for a wider distribution of the message against the Babylonish systems. Please proceed with the sale of the other volumes, specializing on Volume Four and Creation Scenario, also calling special attention to "Pastor Russell's Sermons" and canvassing for them. Tell the people that this agitation against the Truth comes from the clergy, of which fact we have abundant proof, and that the time has come for order-loving people to understand what the Bible teaches, and they cannot find it set forth in clearer language than in the writings of Pastor Russell.

3924

Let us, dear friends, have in mind our Vow to remember daily at the Throne of Heavenly Grace the general interests of the Harvest work, and particularly those who are placed in responsible positions, asking the Lord to give us all wisdom that we may at all times do His will. This is the Lord's work and He will overrule all of this agitation to His glory and for our good. Let us be faithful and loyal to Him. Seeing these things coming to pass, look up and lift up your heads, for our deliverance is near.

Yours in the service of our Redeemer,

WATCH TOWER B. & T. SOCIETY

Defendants' Exhibit J.

3925

Address all Correspondence to the Company,
Hammond, Ind.

New York Office
6078 Metropolitan Bldg.
Telephone Gramercy 569

General Offices
and Mfg. Plant
Hammond, Ind.

W. B. CONKEY COMPANY

Established 1877

Manufacturing Printers, Electrotypes,
Book Binders and Publishers.

Chicago Offices, Marquette Building

3926

Telephone Randolph 2390 Private wires from all
departments to Chicago Office.

Hammond, Ind. March 5th, 1918.

Honorable J. F. Rutherford,
Watch Tower Bible & Tract Soc'y.,
124 Columbia Heights,
Brooklyn, New York.

Dear Sir:

We have your telegram of even date, which reads:

"STOP ALL WORK ON FINISHED MYSTERY
FOR PRESENT. WRITING FULLY.

3927

(Signed) H. F. RUTHERFORD, President,
WATCH TOWER."

In accordance with the above we have stopped work
on this particular volume. We presume, however, that
this is only temporary, and we trust we will have your
further instructions within the next few days to pro-
ceed in completing the editions which we have in hand,
and also that we may be favored with additional print-
ing orders.

3928

Defendants' Exhibit K

We await with interest receipt of your letter referred to in the telegram.

Very truly yours,

W. B. CONKEY COMPANY.

A. E. WILCOX Treasurer

AEW:MM

We have been in active continuous business under the same name and the same management for 40 consecutive years and have never missed a weekly payroll.

3929

Defendants' Exhibit K.

- A. B.—M. M.

A. B.

DEPARTMENT OF JUSTICE,

WASHINGTON, D. C.

March 15, 1918.

Mr. J. E. Rutherford,

International Bible Student's Association,

13 Hicks Street,

Brooklyn, N. Y.

3930

Sir:

In response to your communication of March 11, 1918, relating to the subject of "The Finished Mystery," and asking for the advice of this Department as to whether with pages 247 to 253 removed the book contains anything which could be classed as seditious, the Department begs to state that it is its settled practice and policy not to render opinions in advance as to whether or not any proposed or submitted act or writing or utterance will or will not be a violation of law; and that upon questions of law the Attorney

Defendants' Exhibit L

3931

General is required to give his opinion only to the President and the heads of the executive departments, and, following a practice of long standing, he has uniformly declined to answer such questions when submitted by persons other than those in the government's service.

Respectfully,

For The Attorney General,

(Signed) JOHN LORD O'BRIAN.

Special Assistant to The Attorney General

3932

Defendants' Exhibit L.

Brooklyn, N. Y., Dec. 6, 1916.

To

The Executive Committee,
Watch Tower Bible & Tract Society,
Brooklyn, N. Y.

Dear Friends:

Perhaps it may not be amiss for me to call to your attention a matter which has suggested itself to me, inasmuch as the Apostle exhorts us, saying, "Let him that is taught communicate unto him that teacheth." It is something along this line: A Memorial of Bro. Russell, published in book form with board covers, and containing some or all of these subjects:

3933

PART I.

- a. Biography of Bro. R. by Bro. Rutherford.
- b. Bro. Nelson's articles on "Pastor Russell's place in the Reformation," as printed in Labor Tribune.

3934

Defendants' Exhibit L

- c. Personal incidents, showing the social side of our beloved Pastor's character, composed of, suitable anecdotes contributed by various persons. (I have quite a number in my own memory, and doubtless many others have very interesting little touches to add to the penportrait of our dear Pastor.) And personal Poems.

PART II.

3935

- a. Details of funeral services at N. Y. Temple.
 b. " " " " " " Carnegie Hall, All'y
 c. Photographs of Floral display at N. Y. and Allegheny, also at the grave, and a later one to be taken after the stone is set up.
 d. Various photographs of Bro. Russell during different periods of his life. (Personally I would like to have all the friends of the Truth enjoy that beautiful one which hangs in the dining room behind Bro. R's chair at present, which shows us the fatherly, sympathetic expression which almost all his other photographs lack.

PART III.**THE FINISHED MYSTERY.**

3936

(This was a title Bro. R. permitted me to suggest for the Seventh Volume, once when we were discussing it, and he thought it was very appropriate.)

- a. The Book of Revelation. (A compilation by some one familiar with Bro. R.'s comments on this book. I would suggest Bro. Woodworth, as well fitted and in Bro. R's confidence for so many years.
 b. The Book of Ezekiel. Bro. Fisher, of Scranton, named in Bro. R's will as an alternate for Board

Defendants' Exhibit M

3937

of Editors of Watch Tower, has what seem to me very good ideas on this book.

This book could be advertised or mentioned in the TOWER, and sold for \$1.00 per copy, and it seems to me would be invaluable.

Respectfully submitted by

Yours in His service,

(Signed) G. W. SEIBERT.

Defendants' Exhibit M.

3938

**INTERNATIONAL BIBLE STUDENTS
ASSOCIATION.**

December 7th, 1916.

Mrs. G. W. Seibert,
Bethel.

Dear Sister:

Referring to your letter of December 6th, addressed to the Executive Committee, we beg to say that if the friends therein mentioned desire to prepare the copy mentioned and submit it to us for our consideration, we will consider it and give our opinion as to the advisability of publication.

3939

Yours in His Service,

EXECUTIVE COMMITTEE.

OFFICE RULES AND REGULATIONS

The Following Rules and Regulations Will Apply at the Tabernacle

The work at the Tabernacle shall be under the supervision of one brother, who shall be designated as Manager of the Tabernacle. He shall be appointed by the President.

3941 The work at the Tabernacle shall be divided into the following departments, to wit: Printing, Subscription, Colporteur, Pilgrim, Correspondence, Mailing and Shipping. All other work at the Tabernacle will be incidental to some of these departments. The Manager of the Tabernacle shall have general oversight and superintendency of all the departments and all branches of the work at the Tabernacle, except that of the Treasurer's office. He shall have power to change any person from one department to another as the needs of the work require. If any one in any department is in need of help he shall apply for such assistance to the Tabernacle Manager. Each clerk or helper or assistant shall be assigned to his or her respective place by and with the advice and consent of the President. The
3942 incoming and outgoing mail shall be under the supervision of the Tabernacle Manager, and all outgoing letters must be passed over and signed at his desk.

PRINTING DEPARTMENT. This department shall be under the immediate direction of one designated as Printing Clerk. He shall issue orders for paper and supplies, and for the printing of all such things as are necessary, all of which orders shall be O. K.'d by the Tabernacle Manager or the Representative to the President before the same are sent out. He shall perform such other duties as may be requested

by the Tabernacle Manager. In connection with the Printing Department, all bills shall be audited by one designated as Auditing Clerk.

SUBSCRIPTION DEPARTMENT. The work of this department shall be under the immediate control of one designated as Subscription Clerk. It shall be the duty of this clerk to enter all subscriptions for THE WATCH TOWER and do such other work as is incidental thereto. In connection with this department the stencils shall be cut, and the one doing this work shall be designated as Stencil Clerk.

3944

COLPORTEUR DEPARTMENT. The one having immediate charge of the work of this department shall be designated as Colporteur Clerk. Those who aid him in such work shall be known as assistants. This department shall assign territory to colporteurs; keep all accounts with colporteurs; receive and cause to be filled orders for books, pamphlets, etc., that are handled by colporteurs in the field; issue requisition to the Shipping Department for the shipment of same; attend to the correspondence relating to this department, and do such other things as are customary in the department under the direction of the Tabernacle Manager.

3945

PILGRIM DEPARTMENT. The one having charge of the work of this department shall be designated as the Pilgrim Clerk, and those working with him shall be designated as assistants. This department shall make out the assignments or routes of all the pilgrim brethren, notify the classes of such visits, receive orders for advertising and arrange for the printing and shipping of the same through the proper channels, and shall issue requisition for the shipment of whatsoever material must be sent out from the of-

Defendants' Exhibit N

fice, and, generally, attend to the correspondence pertaining to said department, and perform such other duties as the Manager may request.

CORRESPONDENCE DEPARTMENT. The correspondence shall all be under the direction of the Manager, and he shall assign the various ones to said work, each one of which shall be known as a Correspondence Clerk. The mail shall be properly divided, opened, read and answered as promptly as possible.

3947 **MAILING DEPARTMENT.** This department shall be under the direction of a brother designated as Mailing Clerk, and those aiding him shall be known as assistants. This department shall attend to the wrapping and mailing of **THE WATCH TOWER**; likewise **BIBLE STUDENTS MONTHLY**, and such other things as are usually mailed from this department.

3948 **SHIPPING DEPARTMENT.** This department is now situated in the basement of the Tabernacle and shall continue there. It shall be under the immediate direction of a brother to be known as Shipping Clerk, and those rendering aid to him shall be designated as assistants. All incoming shipments to be stored in the basement shall be received and receipted for by the Shipping Clerk, or one of his assistants. The Shipping Clerk shall be in charge of all stock kept in the basement. It shall be the duty of the Shipping Clerk and those under him to pack and ship out books, Bibles, papers, pamphlets, advertising matter, etc., only upon requisition from the department ordering the same. No one shall take from the basement anything that is kept in stock there without a requisition being first presented to the Shipping Clerk or the one in charge.

SALES ROOM. The store or sales room shall be under the direction of a sister, who shall be designated as Saleslady, and those relieving her shall be known as assistants. In this department shall be kept in stock a supply of Bibles, SCRIPTURE STUDIES, Booklets, Motto Cards, Pamphlets, etc., according to the custom of the past. All retail purchases by anyone shall be made in this department, and if the desired article is not there, but in the basement, the Sales Department may issue a requisition to the Shipping Department therefor.

3950

MISCELLANEOUS. All departments, clerks and helpers shall be under the supervision of the Tabernacle Manager, who may at any time he deems it for the best interest of the work change anyone from one department to another, or call upon one department to assist another. Should anyone desire to be excused for a portion of the time from the office, he or she should first report to the Manager and receive permission from him.

OFFICE HOURS. The office hours shall be from 8:30 A. M. to 12 M. and from 1:15 P. M. to 5:30 P. M., except the sisters, whose hours shall be in the afternoon from 2:00 P. M. to 5:30 P. M. No one shall be permitted to work in the office for a period less than a whole day, except in the discretion of the President or the Manager.

3951

The office is private during office hours, and only those who are employed in the office shall be admitted there during such hours, except officers of the Society or their secretary or representative, or members of an official committee may be admitted at any time. Visitors may be shown through the office at certain hours, under the direction of the Tabernacle Manager, who shall either accompany them himself or assign some person so to do.

3953

TELEGRAMS. All telegrams relating to the business of the Society shall be received at the Tabernacle office during business hours on week days, and immediately opened and copied. The original shall be delivered to the President's Representative, who shall make notation thereupon as to what disposition he has made of it. A copy shall be delivered to the Tabernacle Manager and a copy also to such department as the Manager may deem necessary. All telegrams received after office hours and on Sundays and holidays shall be delivered to the President's office to anyone in charge there. Telegrams shall be immediately opened and referred to the President's Representative or the office Manager or held until either the President or these two named shall be consulted. The outgoing telegrams relating to the Society's business shall be signed "Watch Tower Bible & Tract Society." No telegrams shall be sent out without the O. K. of the Manager or the President or his Representative.

3954

PRESIDENT—His Representative. The President is the executive officer of all the affairs of the Society, including the office at the Tabernacle. It shall be his duty and privilege to call for information at any time from any department or from the Tabernacle Manager that he may deem proper and necessary.

Provision is made for a Representative of the President; and when acting as such his acts are to have the same force and effect and be respected the same as if the President were acting in person. It shall be the duty and privilege of the Representative of the President, by virtue of his office, to visit the various departments at any time and call for such information as may be deemed proper. If any differences arise between any persons at the Tabernacle or any questions that cannot be readily decided, the same shall be sub-

mitted to the Representative of the President, who in turn shall submit the same to the President if available. If the President is not available, then the Representative to the President shall decide, and his decision shall be final.

It is understood that no member of the Board of Directors has any authority to give orders or directions about the work individually; that the Board acts in an official capacity when in session as a board, and while any member of the Board is engaged in office work he will be subject to these rules the same as though he were not a member of the Board.

3956

The Treasurer's office, while maintained at the Tabernacle, is not considered a part of the Tabernacle force, and not under the supervision of the Tabernacle Manager. The Treasurer, as such, has no authority to give orders concerning the work of the Tabernacle. His duties are confined to his office; to the keeping of the books, receiving money; paying bills, etc.

No one of any department shall be privileged to contract debts or obligations, by giving orders or otherwise, for material to be sent into the Tabernacle, unless the same is O'. K.'d or approved by the Tabernacle Manager.

3957

All expense accounts connected with the Tabernacle, before the same are presented to the Treasurer, must have the approval of the Tabernacle Manager or the Representative to the President.

Each person in the office shall treat the other in a kind, considerate manner, and with due respect as a Christian.

Knowing that God is orderly, and desiring ourselves to be like Him, we recognize the necessity for fixed rules. Therefor in order to be helpful one to another, and having in mind that our chief duty is to prepare ourselves for the Kingdom of the Lord, we heartily

3958

Defendants' Exhibit P1

agree to all the terms of these rules and regulations, and by the Lord's grace will observe them.

Any person who takes a position in the office will first consent to be governed by these rules, and will be governed by them, and each one recognizing that we are responsible to the Lord for our stewardship will do all in our power for the order, good government and progress of His work.

Brooklyn, Feb. 1, 1916.

3959

Exhibit P1.

18th Company,
152nd Depot Brigade,
Camp Upton, N. Y.
Feb. 14, 1918.

Mr. W. E. Van Amburgh,
122 Columbia Heights,
Brooklyn, N. Y.

3960

Dear Sir: I am writing you in the hope that you will help me out of present predicament. As you will see by my address, I am one of the draft unfortunates—forced to stay here while people all around me are shooting off their heads about liberty and atrocities of the Fatherland.

I have to work hard from morning till night and am blamed sick of the whole silly business and want to get out of the camp and all that goes with it, just as soon as I can. Can't you help me get away from here? I understand that you are trying to help men to get out of camps, particularly this one at Upton. An acquaintance of one of my friends, a young fellow

Defendants' Exhibit P2

3961

named Christy, said that you were willing to help anyone who wrote you.

If you can help me get out of this, you will have a friend for life. If there is any expense connected with your society let me know and I'll pay my share. Also, if it will get me out, I want to become a member right away.

Trusting that you will answer by return mail and do your best to help me, I remain,

Yours hopefully,

(Signed) CHAS. W. PERSON.

3962

Exhibit P2.

February 16th, 1918.

Mr. Charles W. Person,
18th Company, 152nd Depot Brigade,
Camp Upton, N. Y.

Dear Sir:

Your letter of the 14th inst., addressed to Mr. Van Amburgh, has been handed to this department for reply. 3963

It is quite evident to us that you have not caught the proper idea of what it is to be a member of the INTERNATIONAL BIBLE STUDENTS ASSOCIATION. We are not soliciting members, nor are we undertaking in any way to assist those who are not members to avoid the United States draft. Our endeavor is simply to represent those who are, to our understanding, Christians in the full sense of that word, namely, those who have, of their own volition, made a full consecration of themselves and all that

3964

Defendants' Exhibit P2

they have to the Lord, and whose desire is to serve Him to the best of their ability, and understanding, according to the rules which are laid down in the Bible. From your letter it would appear to us that you have never made such a consecration to the Lord, and we are therefore not in position to represent your individual case. We are always pleased to render assistance when proper to do so, but our Association is in no sense endeavoring to evade the law or to assist others to evade the laws of the Land; but rather to represent those of our number who honestly have conscientious scruples and Scriptural grounds for their scruples, that they may be given the privilege granted them in the law.

3965

You can readily see therefore, dear friend, that it would not be proper for us to represent you, because your letter indicates that you have no such basis for your objection to the draft. If you will read some of our literature you probably will get a clearer view of this matter, and be able to understand our position more clearly.

With kind regards,

Yours in the service of our Lord and Redeemer,

3966 WE/Z.

Order Extending Term and Return Day of Citation.

3967

At a Stated Term of the United States District Court, held in and for the Eastern District of New York, at the United States Court House and Post Office Building, Borough of Brooklyn, City of New York, on the 21st day of June, 1918.

Present: Hon. Harland J. Howe, District Judge.

UNITED STATES OF AMERICA

vs.

JOSEPH F. RUTHERFORD, WILLIAM
E. VAN AMBURGH, ROBERT J.
MARTIN, FREDERICK H. ROB-
SON, GEORGE H. FISHER, CLAY-
TON J. WOODWORTH, A. HUGH
MACMILLAN,

Defendants.

3968

Whereas, the above named defendants, Joseph F. Rutherford, William E. Van Amburgh, Robert J. Martin, Frederick H. Robison, George H. Fisher, Clayton J. Woodworth, A. Hugh MacMillan, have and each of them has, appealed herein and duly served a citation upon the United States of America,

3969

Now, upon motion of Frederick W. Sparks and Jesse Fuller, Jr. attorneys for the defendants, it is

Ordered that the said defendants may within thirty days file with the Clerk of the United States District Court for the Eastern District of New York, amended assignments of error, the same to be included in the transcript of the record in the place and stead of the assignment of error this day filed by the said defendants, and it is

3970 *Order Extending Term and Return Day of Citation*

Further ordered that the June Term of this Court be extended for two months from the date hereof for all further and necessary proceedings on the part of the said defendants and each of them.

HARLAND B. HOWE,
United States District Judge.

**Order Extending Term and Return
Day of Citation.**

3971

At a Stated Term of the United States of America for the Eastern District of New York, held at the United States Court Rooms, in the Borough of Brooklyn, City of New York, on the 10th day of July, A. D. 1918.

Present: The Honorable Harland B. Howe, District Judge.

3972

UNITED STATES against JOSEPH F. RUTHERFORD <i>et al.</i>

On motion of Jesse Fulier, Jr., Esq., of counsel for the defendants, Mr. Buckner, Assistant United States Attorney being present, it is

Ordered that the time of the defendants to file amended assignments of error, bill of exceptions, and other papers and record on appeal, be extended ninety (90) days from June 21, 1918, and that the return of the Writ of Error and the citation be extended to the same date and that the June Term be extended ninety (90) days from June 21, 1918.

HARLAND B. HOWE,
U. S. D. J.

Order Extending Term and Return Day of Citation.

3973

At a Stated Term of the United States District Court for the Eastern District of New York, held at the United States Court Rooms, in the Post Office Building, in the Borough of Brooklyn, City of New York, on the 18th day of September, 1918.

Present: Hon. Thomas J. Chatfield, District Judge.

UNITED STATES OF AMERICA

against

**JOSEPH F. RUTHERFORD, WILLIAM
E. VAN AMBURGH, ROBERT J.
MARTIN, FREDERICK H. ROBI-
SON, GEORGE H. FISHER, CLAY-
TON J. WOODWORTH, A. HUGH
MACMILLAN, and GIOVANNI
DeCECCA,**

Defendants.

3974

On motion of Jesse Fuller, Jr., Esq., of counsel for defendants, and on consent of the United States Attorney for the Eastern District of New York, it is

3975

Ordered that the June Term of this Court be extended thirty-one days from the date or one hundred and twenty (120) days from June 21st, 1918, and it is

Further ordered that the time of the defendants above named and of each of them to file assignments of error or amended assignments of error, to settle and file a bill of exceptions herein, and to prepare and file any other papers for a review of the record herein, be extended thirty-one days from date or one hundred and twenty (120) days from June 21st, 1918, and

3976 *Order Extending Term and Return Day of Citation*

that the time of the return to the writ of error and the citation heretofore issued herein be extended to the 19th day of October, 1918, and that said writ of error and citation be amended accordingly.

Enter

THOMAS I. CHATFIELD,
U. S. J.

The foregoing order is hereby consented to.

MELVILLE J. FRANCE,
United States District Attorney
for the Eastern District of New
York.

3977**3978**

Order Extending Term and Return Day of Citation.

3979

At a General Term, as extended, of the United States District Court, for the Eastern District of New York, held at the United States Court Rooms, in the Post Office Building, in the Borough of Brooklyn, City of New York, on the 15th day of October, 1918.

Present: Hon. Thomas I. Chatfield, District Judge.

UNITED STATES OF AMERICA

against

**JOSEPH F. RUTHERFORD, WILLIAM
E. VAN AMBURGH, ROBERT J.
MARTIN, FREDERICK H. ROBI-
SON, GEORGE H. FISHER, CLAY-
TON J. WOODWORTH, A. HUGH
MACMILLAN, and GIOVANNI
DeCECCA,**

Defendants.

3980

On motion of Jesse Fuller, Jr. of counsel for defendants, and on consent of the United States Attorney for the Eastern District of New York, it is

3981

Ordered that the June Term of this Court be extended to and including the 21st day of December, 1918; and it is

Further ordered that the time of the defendants above named and of each of them to file assignments of error or amended assignments of error, to settle and file a bill of exceptions herein, and to prepare and file any other papers for a review of the record herein, be extended to and including the 21st day of December, 1918, and that the time of the return to the writ

3982 *Order Extending Term and Return Day of Citation*

of error and the citation heretofore issued herein be extended to the 21st day of November, 1918, and that said writ of error and citation be amended accordingly.

Enter.

THOMAS L. CHATFIELD,
U. S. D. J.

The foregoing order is hereby consented to:

MELVILLE J. FRANCE,
United States District Attorney
for the Eastern District of New
York.

3983

3984

Order Extending Return Day of Citation. 3985

At a General Term, as extended, of the United States District Court, for the Eastern District of New York, held at the United States Court Rooms, in the Post Office Building, in the Borough of Brooklyn, City of New York, on the 21st day of November, 1918.

Present: Hon. Thomas I. Chatfield, District Judge.

UNITED STATES OF AMERICA

vs.

JOSEPH F. RUTHERFORD, WILLIAM E. VAN AMBURGH, ROBERT J. MARTIN, FREDERICK H. ROBINSON, GEORGE H. FISHER, CLAYTON J. WOODWORTH, A. HUGH MACMILLAN, and GIOVANNI DECECCA,

Defendants.

3986

On motion of Jesse Fuller, Jr., of counsel for defendants, and on consent of the United States Attorney for the Eastern District of New York, it is

3987

Ordered that the time of the defendants above named and of each of them to file assignments of error or amended assignments of error, to settle and file a bill of exceptions herein, and to prepare and file any other papers for a review of the record herein, be extended to and including the 21st day of December, 1918, and that the time of the return to the writ of error and the citation heretofore issued herein be

3988

Order Extending Term

extended to the 21st day of December, 1918, and that said writ of error and citation be amended accordingly.

Enter.

THOMAS I. CHATFIELD,
United States District Judge.

The foregoing order is hereby consented to.

MELVILLE J. FRANCE,
United States District Attorney
for the Eastern District of New
York.

3989

Order Extending Term.

At the June Term of the United States District Court, as extended, held in and for the Eastern District of New York, at the United States Court House, in the Post Office Building, in the Borough of Brooklyn, City of New York, on the 21st day of December, 1918.

Present: Hon. Thomas I. Chatfield, District Judge.

3990

UNITED STATES OF AMERICA

vs.

JOSEPH F. RUTHERFORD, WILLIAM
E. VAN AMBURGH, ROBERT J.
MARTIN, FREDERICK H. ROBI-
SON, GEORGE H. FISHER, CLAY-
TON J. WOODWORTH, A. HUGH
MACMILLAN, and GIOVANNI
DeCECCA,

Defendants.

Whereas the above named defendants, Joseph F. Rutherford, William E. Van Amburgh, Robert J.

Order Extending Term

3991

Martin, Frederick H. Robison, George H. Fisher, Clayton J. Woodworth, and A. Hugh MacMillan, did heretofore and on or about the 21st day of June, 1918, appeal herein, procure the allowance of a writ of error, duly serve a citation on the United States of America, and did duly file certain assignments of error; and

Whereas on or about the 21st day of June, 1918, an order was entered herein granting to said defendants, above named, leave to file amended assignments of error within thirty days after said 21st day of June, 1918, the same to be included in the transcript of the record in the place and stead of the assignments of error filed by said defendants on said day, which time to file said amended assignments of error has been from time to time extended and now expires on December 21st, 1918; and

3992

Whereas said amended assignments of error were filed with the Clerk of the United States District Court for the Eastern District of New York, on the 20th day of December, 1918; and

Whereas judgment was entered against Giovanni DeCecca on the 10th day of July, 1918, in the office of the Clerk of the United States District Court for the Eastern District of New York; and

3993

Whereas said Giovanni DeCecca has appealed herein from said judgment and has procured the allowance of a writ of error and has duly served a citation upon the United States of America on the 21st day of December, 1918, and has on said day filed with said Clerk of the United States District Court for the Eastern District of New York assignments of error, which assignments of error are the same as the amended assignments of error filed by or on behalf of the said Joseph F. Rutherford, William E. Van Amburgh, Robert J. Martin, Frederick H. Robison, George H. Fisher, Clayton J. Woodworth and A. Hugh MacMillan;

3994

Order Extending Term

Now, upon motion of Frederick W. Sparks and Jesse Fuller, Jr., attorneys for said defendants, Joseph F. Rutherford, William E. Van Amburgh, Robert J. Martin, Frederick H. Robison, George H. Fisher, Clayton J. Woodworth, A. Hugh MacMillan and Giovanni DeCecca, it is

3995

Ordered that said defendants and each of them may within thirty days file with the Clerk of the United States District Court for the Eastern District of New York, assignments of error or further assignments of error, as the case may be, the same to be included in the transcript of the record in the place and stead of the assignments of error heretofore filed by or on behalf of said defendants or any of them, and it is

Further ordered that the June Term of this Court be extended until the 21st day of February, 1919, for all purposes and all further and necessary proceedings on the part of said defendants, and each of them.

THOMAS I. CHATFIELD,
United States District Judge.

Consented to Dec. 21st, 1918.

3996

MELVILLE J. FRANCE,
U. S. Atty. E. D. N. Y.

Order Extending Term.

3997

At the June Term of the District Court of the United States of America for the Eastern District of New York, held at the United States Court Rooms, in the Borough of Brooklyn, City of New York, on the 20th day of February, 1919.

Present: Edwin L. Garvin, District Judge.

UNITED STATES OF AMERICA

vs.

JOSEPH F. RUTHERFORD, WILLIAM
E. VAN AMBURGH, ROBERT J.
MARTIN, FREDERICK H. ROBI-
SON, GEORGE H. FISHER, CLAY-
TON J. WOODWORTH, A. HUGH
MACMILLAN, and GIOVANNI
DeCECCA,

Defendants.

3998

On motion of Sparks, Fuller & Stricker, attorneys for the above named defendants, and on the annexed consent of the United States District Attorney for the Eastern District of New York, it is

3999

Ordered that the June Term of this Court be and the same hereby is extended to and including the 21st day of March, 1919, for all purposes, and for all further and necessary proceedings on the part of the above named defendants and each of them, including the settlement and filing of a bill of exceptions on behalf of each and all of said defendants; and it is

Further ordered that the time for making the return to the writs of error heretofore issued herein be

4000 *Order Extending Term and Return Day of Citation*

and the same hereby is extended to the 21st day of March, 1919.

EDWIN L. GARVIN,
United States District Judge.

I hereby consent to the entry of the foregoing order.

MELVILLE J. FRANCE,
United States District Attorney.

Feb. 19, 1919.

4001 **Order Extending Term and Return Day of Citation.**

At the June Term of the District Court of the United States of America for the Eastern District of New York, held at the United States Court Rooms in the Borough of Brooklyn, City of New York, on the 20th day of March, 1919.

Present: Hon. Harland B. Howe, District Judge.

UNITED STATES OF AMERICA

vs.

JOSEPH F. RUTHERFORD, WILLIAM
E. VAN AMBURGH, ROBERT J.
MARTIN, FREDERICK H. ROBI-
SON, GEORGE H. FISHER, CLAY-
TON J. WOODWORTH, A. HUGH
MACMILLAN, and GIOVANNI
DeCECCA,

Defendants.

On motion of Sparks, Fuller & Stricker, attorneys for the above named defendants, it is

Order Extending Term

4003

Ordered that the June Term of this Court be and the same hereby is extended to and including the 21st day of April, 1919, for all purposes, and for all further and necessary proceedings on the part of the above named defendants and each of them, including the settlement and filing of a bill of exceptions on behalf of each and all of said defendants; and it is

Further ordered that the time to file the return to the writs of error heretofore issued herein and the return day of citation be and the same hereby is extended to the first day of April, 1919.

HARLAND B. HOWE,
United States District Judge.

4004

Terms of the order agreed to.

JAS. D. BELL,
U. S. Attorney.

March 20, 1919.

4005

4006

Assignment of Errors.

UNITED STATES DISTRICT COURT,

FOR THE EASTERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

vs.

JOSEPH F. RUTHERFORD, WILLIAM
E. VAN AMBURGH, ROBERT J.
MARTIN, FREDERICK H. ROB-
SON, GEORGE H. FISHER, CLAY-
TON J. WOODWORTH, A. HUGH
MacMILLAN,

Defendants.

4007

Now, comes Joseph F. Rutherford, William E. Van Amburgh, Robert J. Martin, Frederick H. Robison, George H. Fisher, Clayton J. Woodworth, A. Hugh MacMillan, defendants above named, by their attorneys, Sparks, Fuller & Stricker, and they and each of said defendants makes the following assignment of errors which they and each of them avers occurred upon the trial of this action:

4008

1. The Court erred in denying defendants' motion, made at the close of the government's case, to direct a verdict of acquittal on each of the counts set forth in the indictment, for the reasons stated at the time said motion was made.

2. The Court erred in charging the jury that defendants were conclusively presumed to know the law within the scope of the charge contained in the first and second counts of the indictment.

Assignment of Errors

4009

3. The Court erred in denying defendants' motion to withdraw a juror while the witness, Hudgings, was on the stand testifying as a witness called by the government, and held to have committed contempt of court in false swearing while such witness.

4. The Court erred in denying defendants' motion for a direction of a verdict at the conclusion of the whole case.

Dated, June 21st, 1918.

Yours etc.,

SPARKS, FULLER & STRICKER,

4010

Attorneys for Defendants,

Office & P. O. Address,

44 Court Street,

Borough of Brooklyn,

City of New York.

4011

4012 **Assignment and Amended Assignment
of Errors.**

UNITED STATES DISTRICT COURT,
FOR THE EASTERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

VS.

4013

JOSEPH F. RUTHERFORD, WILLIAM
E. VAN AMBURGH, ROBERT J.
MARTIN, FREDERICK H. ROB-
SON, GEORGE H. FISHER, CLAY-
TON J. WOODWORTH, A. HUGH
MACMILLAN, and GIOVANNI DE-
CECCA,

Defendants.

4014 Now, comes Joseph F. Rutherford, William E. Van
Amburgh, Robert J. Martin, Frederick H. Robison,
George H. Fisher, Clayton J. Woodworth, and A.
Hugh MacMillan, defendants above named, by their
attorneys, Sparks, Fuller & Stricker, and they and
each of said defendants, make the following amended
assignments of error, which they, and each of them,
avers occurred upon the trial of this action, wherein
the excerpt from the record upon the trial follows
the assignments of error, and the references are to
the pages of the proposed bill of exceptions as filed
herein:

Now, comes Giovanni DeCecca, defendant above
named, by his attorneys, Sparks, Fuller & Stricker,
and makes the following assignments of error which
he avers occurred upon the trial of this action, where-
in the excerpts from the record upon the trial follows
the assignments of error, and the references are to
the pages of the proposed bill of exceptions as filed
herein:

1. The Court erred in refusing to dismiss the indictment, and the separate counts I, II, III and IV thereof upon the ground that neither said indictments nor any of the said counts thereof stated facts constituting a crime.

"Mr. Sparks: Before the beginning of the actual trial, we move to dismiss the indictment and all counts therein, on the ground that it does not state facts sufficient to constitute a crime. I move to dismiss the first count in the indictment on the ground that the facts alleged in said count do not constitute a crime. I make the same motion as to count 2 of the indictment.

4016

The same motion as to Count 3 and the same motion as to Count 4.

"The Court: These motions are denied. The Court rules separately on each motion, and as to each of the defendants, and each defendant has an exception to each ruling of the Court. I will preserve your rights; if you want, you may make your motion later and specify.

"Mr. Sparks: We will amplify the remarks for that motion.

"The Court: You may do that at your convenience any time during the trial; it may be treated as having been done before the jury was called."

4017

2. The Court erred in excusing the Talesman Wilson (as equivalent to sustaining a challenge for cause) upon the ground that his having read the book referred to disqualified him and upon the ground of prejudice generally.

"Mr. Sparks objects to the question of Mr. Oeland put to Talesman Wilson, as to whether his knowledge of the defendants would not require more proof from the Government to prove the defendant guilty beyond a reasonable doubt.

(Mr. Sparks at this point directed the reporter to report the examination of the talesman).

"Mr. Sparks: I object to that (referring to question above noted by Mr. Oeland to Mr. Wilson).

"The Court: Do you think you would have some prejudice?

"Talesman Wilson: You might call it a preference, not a prejudice.

"The Court: Have you read the book, the seventh volume?

"Talesman Wilson: Yes.

4019 "The Court: He may be excused.

"Mr. Sparks: Exception.

"The Court: What is the exception?

"Mr. Sparks: To preserve our record.

"The Court: You took an exception.

"Mr. Sparks: The Court has excluded the juryman for cause. I take it the cause is not sufficiently made out. I take an exception.

"The Court: He said he read this book.

"Mr. Sparks: That's the reason you released him. That's the reason I made an objection.

4020 "The Court: You took an exception, not an objection. You merely spoke up saying, "Counsel takes an exception," when an objection is made. It is not reviewable. No error is committed. The Court is entitled to know what complaint you have to a certain ruling. I am mentioning this to protect your rights in the matter if you prefer.

"Mr. Sparks: I take an objection and an exception.

"Mr. Fuller: If your Honor will permit me to specify the grounds. There is a chance there is a person familiar, apparently familiar, with the doctrines of this association. We have no desire to find a juryman biased in our favor, we also want to be sure there is no juryman biased against us. Familiar-

ity with the doctrines does not enter into the qualifications of a juror. That would imply it would be necessary to try the case before a group of jurors, no one of whom is familiar with this work. If a Congregationalist were on trial for some work, and whether somebody else was a Congregationalist and familiar with his doctrines, that would not constitute bias. So far as this book is concerned, it may be necessary for these jurors to become entirely familiar with the book before the trial ends. It is a possibility they may have to read it. The only question so far as the book is concerned, with this juror is that he has a knowledge which all the jurors may be obliged to have before the conclusion of the trial. It does not seem to me the objection of any book were questionable, or the fact that any body had read that book would disqualify him. But until we get further along in the preparation of this jury we do not like the idea of a question of this character resulting in a refusal of a jury without a peremptory challenge.

4022

"The Court: This juror may be excluded.

3. The Court erred in excluding the question of counsel for the defendant to the Talesman in the jury box. "Would you carry into the jury room a prejudice against a person who made such a claim?" (referring to a claim of being a "conscientious objective.")

4023

"Q. Would you carry into the jury room a prejudice against a person who made such a claim?

"The Court: That may be excluded, already answered.

"Mr. Sparks: Exception."

4. The Court erred in limiting the examination of Talesmen by counsel for defendant in the manner appearing from the following portions of the record.

4024

Assignment of Errors

"The Court: Gentlemen of the jury, are any of you gentlemen so prejudiced on any of these questions you cannot try this case on the evidence given you from the witness stand here in court, and decide it on that evidence, decide it fairly, impartially? What do you say to that? All say you can?

(No negative answer.)

"The Court: That satisfies the rule of law, does it not?

"Mr. Sparks: No.

4025

"The Court: Why?

"Mr. Sparks: I have the right to examine and exhaust it and not have the Court put a question of that kind in that inclusive way and prevent me, and cut me off from developing what the juror actually has in mind when he already has answered to one question and said he had an objection. Your Honor forecloses me to that right.

"The Court: You ought to be foreclosed if you interrogated each of these jurors for an hour. I am not going to let you pursue this to almost endless. If you have any question bearing—

4026

"Mr. Sparks: Then, your Honor directs me to desist from asking the question about to be asked?

"The Court: You may ask it. I will exclude it. You may ask and take an exception. You are not going to take much more time in examining this jury."

"Mr. Sparks: Your Honor makes this statement about an hour and a quarter examining this jury when Judge Oeland took up most of that time.

"The Court: I hardly think he did. You should profit some by the questions he asked.

"Mr. Fuller: Without wasting a single minute of the time of the Court and jury, it is our conception of our clients, we have a conception—

"The Court: As these jurors collectively, not individually.

"Mr. Fuller: Upon two matters, one possible bias towards a certain quality of man—

"The Court: Why don't you ask them collectively?

4028

"Mr. Fuller: I did. Two spoke up and said they had bias, and I proceeded to ask those two when I was stopped by your Honor. Mr. Meyer said he did not consider such a person a good American citizen. I am shut off in inquiring further by asking what he meant by that, and then accused of taking too much time. We told the Court yesterday it would take a long time and the Court entered upon the trial with that understanding, that the drawing of this jury was going to take a long time.

"The Court: If you have any more questions to ask, ask them.

4029

"Mr. Sparks: Your Honor has excluded that question?

"The Court: "The good American citizen, I will exclude, the juror said he could try—

"Mr. Sparks: How can I tell whether I can exercise a peremptory challenge unless I am permitted to know what he means by that, aside from the questions of the case.

5. The Court erred in characterizing the remarks of counsel for defendants as threats, and in the same connection in referring to their pursuing the examin-

4030

Assignment of Errors

ation of talesmen to an endless conclusion, both of which tended to prejudice the defendant's case with said talesmen.

"Mr. Sparks: This is an important case for eight men.

"The Court: This case is no more important than any other case involving this charge, tried the same as any other case, tried the same as for the most humble and unheard of person.

4031

"Mr. Sparks: If your Honor directs me to stop—

"The Court: No: I don't direct you to stop. You ask your question; I will exclude them.

"Mr. Sparks: If I am not permitted to examine this jury in the way I think I ought to in justice to my clients, I shall have to retire from the case.

"The Court: You may retire any time you desire or want to. You may retire, Mr. Counsel; that threat will not be controlling. That is a right you have any time, but it is not a right you have to control the impanelling of this jury, and it will be just as well, just as good practice, to omit such threats.

4032

"Mr. Sparks: It is not a threat, simply a statement that I cannot examine this jury under the limitations your Honor has put upon me.

"The Court: You will have to take your exception. I am not going to allow you to pursue to an endless conclusion—

"Mr. Sparks: I don't consider I am so doing.

"The Court: Very well, I think you are. This jury should have been impanelled long ago."

6. The Court erred in refusing to sustain the challenge for cause of the talesman Eno by counsel for defendants.

"Q. Mr. Eno, would you enter the box with any prejudice against a person who claimed he had conscientious objections against the war, and, therefore, under the Selective Service Act asked for deferred classification? A. I don't know. I think I might be a little that way.

4034

"Q. You think you might be biased? A. I imagine I would.

"Mr. Sparks: Then, we submit a challenge for cause as against Mr. Eno.

"The Court: Notwithstanding what you say, what you think you might be, couldn't you hear the evidence here and try the case, lay aside your bias and prejudice and give the Government and the defendants a fair and impartial trial, decide the case on the evidence and the law of the land?

"A. As you put the question to me, I can .

4035

"The Court: That's what the law requires.

"A. Counsel asks me if a conscientious objector stated his objection would I take it that way.

"The Court: You think you can do that?

"A. The way the question is put to me, yes.

"The Court: That is the law, isn't it, to qualify a jurymen. Of course, we all have prejudice, bias, likes and dislikes. I hardly think you can get a jury composed of men free from all bias and prejudice. Now, the jurymen being conscious he might have a little

4036

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bias makes him a safe jurymen. A person who is prejudiced and knows it, there is not much danger from him. It is those of us who are prejudiced and don't know it, who are liable to do damage. So in view of what he says the Court will decline to excuse this jurymen for cause.

"Mr. Sparks: Exception."

7. The Court erred in excluding in the following manner the question of counsel for the defendants to the Talesman:

4037

"Q. Mr. Meyer, do you think a man has any right to make a claim on the ground he is a conscientious objector?

"The Court: The Court will exclude that question, as a matter of discretion. In view of all the questions you have asked this jurymen and in view of the answers that the jurymen has given as to his ability to give a fair and impartial trial, the Court will exclude that, and feels it is a matter of discretion—the Court realizes it is a matter of discretion, in view of the length of the examination made by the Government and the defense. Proceed, please.

4038

"Mr. Sparks: I take an exception."

8. The Court erred in excluding the questions of counsel for defendants to the Talesmen, "Do you believe a person has a right to express disapproval of the Government's action in entering the war?" and "Do you think a person has a right to criticize the Government for passing what is commonly known as the selective service law?" and in criticizing counsel's said questions as "A new way of finding out if men will make good jurymen."

"By Mr. Sparks:

"Q. Do you believe a person has a right to express disapproval of the Government's action in entering this war?

"The Court: In the trial of this case the questions of fact are for you to decide. Questions of law are for the Court to decide. Would you take the law of the case as given you by the Court and follow instructions and directions of the Court, regardless of your own opinions what the law is or should be? I might say, if the Court makes a mistake in its ruling on the law, the defendants have the right to take an exception, take the case to a higher court, and have the error corrected. If you should take your own views of the law as your guide there would be no way an error you might make could be corrected, so the rights of the party is saved by a right of appeal if the Court makes a mistake on the law, and it becomes manifestly your duty to follow the law as given by the Court. Would you all do that?

4040

"(Several affirmative answers come from the jury box.)

"The Court: Isn't that sufficient?

"Mr. Sparks: It is in a way, but I want to know whether any juror has an opinion as to the right of an individual to criticize the Government for its action in going into the war?

4041

"The Court: How is that liable to become material in this case? They are not charged with criticizing the Government. They are indicted for attempting to cause insubordination, obstructing the recruiting service, etc., not for criticizing the Government.

"Mr. Sparks: That is so closely connected with the Draft Act and the entry in the war—

"The Court: I don't think so.

4042

Assignment of Errors

"Q. Do you think a person has a right to criticize the Government for passing what is commonly known as the selective service law?

"The Court: On that question you take the law from the Court. They say they would take the law from the Court on all these questions, why should we interrogate them on their views?

4043

"Mr. Sparks: I am trying to find out if the gentlemen in the box have any opinion as to whether a person has a right to criticize because some of the articles the Government will introduce in evidence here they will try to construe as a criticism of the Government in passing the Draft Act. I have the right to know whether any of these gentlemen believe we have that right.

"The Court: You want to turn the jurymen into lawyers then. Suppose they have that opinion?

Mr. Sparks: I want to know it then, so I may examine further, and possibly use some challenges on the question; that is the object of my questions.

4044

"The Court: Well, this is a new way of finding out if men will make good jurymen to me. It is strange if they hadn't some notions of their own as to these various things.

"Mr. Sparks: May I ask to have the question answered?

"The Court: Do you contend there is any law in the land that premits criticism of the Government?

"Mr. Sparks: I say there isn't. Of course, I say there isn't. I want to find out from these jurors whether they think it is wrong for a

person to stand up and criticize the Government in such times.

"The Court: If there is nothing shown against these defendants except criticizing the Government, the Court will discharge them, and order a verdict of not guilty. How is that material? If there is no evidence to show they committed the offense charged the Court will order them discharged.

"Mr. Sparks: I take an exception, and will pass on to something else."

9. The Court erred, upon counsel for defendants asking a talesman the question: "You said you were against any person against the Government," in making the remark to counsel "Aren't you" thereby prejudicing defendants case with the jury by bringing their counsel into ridicule.

4046

"Q. You said you were against any person against the Government?"

"The Court: Aren't you?"

"Mr. Sparks: Of course that creates a laugh.

"The Court: No, and the laugh must cease, and if it is repeated the audience will be invited to withdraw from the court room.

4047

"Mr. Sparks: And in answer to your Honor's question as to my position, which, of course, is not at all in question—

"The Court: I think the question is impractical.

"Mr. Sparks: If it is impractical that is because of my inability to see your Honor's point of view but in developing what the juror says I have a right to develop that without the right of the Court asking me a question

which has a tendency to put me in a position in court, and which your Honor should—

"The Court: I will withdraw the question. Gentlemen (addressing jury) cast that out of your minds. Be very sure to disregard it, and the laugh that came forth from the spectators, cast that out of your minds. We are not here to make this trial a town meeting, or to be influenced by public sentiments, or public favor or disfavor."

4049

10. The Court erred in omitting the book, Exhibit 3, in evidence against the defendants and each of them.

"Mr. Oeland: We offer certain extracts from the preface.

"Mr. Fuller: Is this the book in evidence? I understood it was only marked for identification.

"Mr. Oeland: We are not offering these portions of the book in evidence.

"Mr. Fuller: We object to the introduction of those in evidence on the ground that the defendant DeCecca is not shown to be involved.

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"The Court: Are you going to connect him?

"Mr. Oeland: Yes; we cannot do it all at once.

"Mr. Fuller: I make the same objection on the part of each defendant.

"The Court: You don't make it on behalf of these gentlemen who were out here and participated in the procuring of the printing and paying bills?

"Mr. Fuller: No; that is the defendants, Rutherford and Woodworth. Those two only excepted.

"The Court: Martin was there.

"Mr. Fuller: There is no evidence except of his physical presence in the building.

"Mr. Sparks: It is remote.

"Mr Fuller: I don't want to be delaying progress with objections. We cannot tell by connection how the prosecution is going to work out. This is to preserve our rights. I realize there might be some difficulty in presenting the evidence. We do not want to waive our rights. It seems to me in respect to the book up to date the testimony only connects Rutherford and Woodworth with the book. I make the objection as to the other defendants at this time.

4052

"The Court: What do you say to that, they say Rutherford and Woodworth are the only ones this is to be received against.

"Mr. Oeland: We have shown a check signed by Van Amburgh and MacMillan and Van Amburgh.

"The Court: I am inclined to admit it against those two.

"Mr. Oeland: We shall connect it.

"The Court: It may be admitted against the four.

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"Mr. Sparks: Before they can read, or offer in evidence, they must establish the conspiracy count, establish the conspiracy by overt acts themselves, they must first establish the conspiracy before documentary evidence, which is part of the overt acts claimed in the indictment, can be used, otherwise they would be able to prove a conspiracy by separate individual acts which they could pin together. That I understand the Court prohibits.

4054

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"The Court: That I understand the Court allows.

"Mr. Sparks: I understand that is what they prohibit.

"The Court: Separate acts, all tending to accomplish the same purpose, made in pursuance of a common purpose, tending to accomplish that purpose, whether separately or together—

4055

"Mr Sparks: Up to date, unless willing to drop out the defendants, they have not connected, your Honor should not permit this in evidence and let it be read.

"The Court: I think it should be admitted in evidence.

"Mr Sparks: Exception."

11. The Court erred in admitting the copy of the book Exhibit 8 shown its witness Woerley in evidence.

"GEORGE WOERLEY, being called as a witness on behalf of the Government and duly sworn, testified as follows:

Direct-examination by Mr. Oeland:

4056

"Q. Where do you reside? A. Scranton, Pa.

"Q. What is your age? A. 25 years.

"Q. Was this book sold to you, I hold in my hand?

A. Yes.

"Q. At what time? A. The 1st day of December.

"Q. Last year? A. 1917.

"Q. Do you identify this as the volume sold to you?

"Mr Sparks: Before this testimony is offered is there any claim that any one of these defendants sold it to him?

"Mr. Oeland: No.

"The Court: They printed it, wrote it?

4057

"Mr. Oeland: They published it, they put it in circulation, they are responsible for it.

Mr. Sparks: Assume that is so, assume somebody got hold of it, that wouldn't bind these defendants.

"The Court: It would have a tendency.

"Mr. Sparks: I object. There is no connection shown.

"The Court: They printed seven or eight hundred thousand of these, they were sold at random.

"Mr Sparks: I don't care whether it was eight million.

4058

"The Court: It don't make any difference whether it was eight million or only eight.

"Mr Sparks: If you are trying to hold an individual defendant for the sale of a particular book, you must establish the defendant himself authorized the sale of it or himself sold it. There is no proper connection between this sale and the defendant.

"The Court: What would be the inference if the evidence showed they received 800,000?

Mr. Sparks: The jury in a criminal case is not allowed to speculate.

"The Court: They are allowed to draw legal inferences. 4059

"Mr. Sparks: I press my objection.

"The Court: I am inclined to admit it.

"Mr. Sparks: You have admitted it?

"The Court: Yes.

"Mr. Sparks: Exception.

"Mr Sparks: In view of the fact that it affirmatively appears none of the defendants in this case sold the witness this book, I move to strike out all his testimony.

"The Court: Denied.

"Mr. Sparks: Exception."

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12. The Court erred in refusing to strike out the testimony of the witness Auchey to the effect that he seized copies of the book, Exhibit 3, there being no identification of the books seized by him as the same.

"RE-CROSS EXAMINATION by Mr. Fuller:

"Q. Did you read anything in the books you took?

A. No, sir.

"Q. Did you read this book just shown you? A.

No, sir.

4061 "Q. You testified this was the same book as the books you took. You mean by that the binding was the same, the size was the same, the cover was the same? A. Yes.

"Q. Do you know anything about the size of the book you had in your hand, or the books you took? A. No, sir.

"Mr. Sparks: I move to strike out his testimony as incompetent, irrelevant and immaterial, a conclusion of the witness unsupported by any facts.

4062 "The Court: The testimony he gave on his direct-examination. The Court examined him on all points. It is for the jury to say whether it is the same or not. I hardly think the Court is justified.

"Mr. Fuller: I found this morning I was not reading from the same book that the District Attorney was.

"The Court: That may be, that is for the jury to say whether the books he seized are the same as the ones we have here.

"Mr. Sparks: Exception.

"The Court: You asked him if the title was the same, the print was the same, the same

name of the author; that might eliminate the defect suggested.

"RE-DIRECT EXAMINATION by Mr. Oeland:

"Q. You did not read the book? A. No, sir.

"Q. Is the name the same? A. Yes, sir.

"Q. The binding the same? A. Yes.

- "By the Court:

"Q. Printed in the same kind of type, title on the back in gilt? A. Yes.

4064

"Q. The same style book? A. Yes.

"The Court: Perhaps he looked at the title page.

"Q. Did you look at the title page of the books you took? A. Yes.

"Q. Do you remember looking at any other page in the book? A. One page.

"Q. Do you remember what page it was? A. No, I don't. I don't remember the number.

"The Court: Look at the title and see if the title is the same as those you took from the store.

"The Witness: That is the same book? Yes.

4065

"Mr. Sparks: I object to the form.

"The Court: Admitted.

"Mr. Sparks: Exception."

13. The Court erred in allowing the witness Inseberg to testify to the conclusion that the book "The Finished Mystery" (Exhibit 3), was sent to him from the Watch Tower Bible and Tract Society, and in refusing to strike out his testimony to that effect:

4066

Assignment of Errors

"HANS INSBERG, being called as a witness on behalf of the Government and duly sworn, testified as follows:

"Direct-examination by Mr. Oeland:

"Q. What is your age? A. Twenty-eight.

"Q. Where are you now? A. In Camp Devens.

"Q. Been drafted? A. Yea.

"Q. You have refused to put on the uniform?

4067

"Mr. Sparks: I object to this line of testimony, not binding on these defendants; not connected in any way with the crime alleged in the indictment.

"The Court: Are you going to show he read the book?

"Mr. Oeland: Yea.

"The Court: Take that first.

"Q. Are you acquainted with the book called 'The Finished Mystery'? A. Yea.

"Q. I hand you the book, Exhibit 8, and ask you if you have seen the same book?

"The Court: And read it?

"A. Yea.

4068

"Q. When did you see it? A. Last July; July last year, 1917.

"Q. What time in July? A. It was about the end of July, I guess.

"Q. 1917? A. Yea.

"Q. Where did you get it from? A. Sent from the Brooklyn Tabernacle, from the Watch Tower Bible and Tract Society.

"Mr. Fuller: I object, hearsay.

"The Court: Why?

They sent it.' How does he know?

"Mr. Fuller: 'Where did you get it from?

"The Court: Ask him.

"Mr. Fuller: Calls for a conclusion?

"The Court: The Court couldn't say he don't know where it came from.

"Mr. Fuller: Nobody could. 'Who sent it? Where did it come from?' That is a conclusion.

"The Court: That conclusion doctrine I don't take much stock in.

"Mr. Fuller: Exception.

"Mr. Sparks: Exception.

"Mr. Sparks: I move to strike out the answer. 4070

"The Court: Denied.

"Mr. Sparks: Exception.

"Q. First you said the Brooklyn Tabernacle and then you said the Watch Tower Bible and Tract Society? A. Yea.

"Q. How many did you get? A. One.

"Q. How did you get it? A. They sent it.

"The Court: Did you ask them for it?

"The Witness: No.

"The Court: How do you know it came from this Tabernacle?

"The Witness: It said so. Said it was sent from the Tabernacle. 4071

"The Court: Printed on the outside cover to that effect?

"The Witness: Yea.

"The Court: That makes it admissible, doesn't it?

"Mr. Sparks: No.

"The Court: It is some evidence?

"Mr. Sparks: Not a bit.

"Mr. Fuller: Very little.

4072

Assignment of Errors

"Mr. Sparks: I might send a letter to your Honor, with my name to it, Frederick W. Sparks; that is no evidence I sent it.

"The Court: If we had evidence you had eight or nine hundred thousand of those letters, and I had it postmarked, and your label on it.

"Mr. Sparks: Our Court of Appeals has not, in 213—

"The Court: I would like to see it. I don't think I would follow it.

4073

"Mr. Sparks: Then it is hardly worth while showing it to your Honor.

"The Court: Temporarily I will admit it.

"Mr. Sparks: Exception.

"The Court: Yes, it is a question of fact for the jury."

14. The Court erred in allowing the witness Insberg to testify to his procuring copies of the book "The Finished Mystery" from other persons than the defendants and at a different city and state from that of his office and as to what he did with the copies so procured by him.

4074 "Q. You say you went to Camp Devens in what month? A. October.

"Q. 1917? A. 1917.

"Q. Have you procured any more volumes since that time? A. Yes.

"Q. How many? A. About a dozen.

"Q. When did you get those?

"Mr. Sparks: I object, immaterial, not binding on these defendants what he did. He is not one of the conspirators.

"The Court: He is one of the military forces of the United States.

"Mr. Sparks: I understand what he does may bind him; the military authorities might deal with him, but the Court cannot deal with us for what he does.

"The Court: They led him to these acts.

"Mr. Sparks: Assume he bought one of those books, and by reason of reading anything in it he came to the conclusion he should not do military service and he went and spread propoganda; do you think his dealings would lead to us?

"The Court: I certainly do. You have set that in motion; you would be bound by the force it takes if you published 800,000 for sale and distribution. 4076

"Mr. Sparks and Mr. Fuller: We take an exception.

"The Court: There is no ruling, nothing binding. This is the Court's view. You can have an exception.

"Mr. Sparks: I made an objection to the question.

"The Court: That he bought ten or twelve?

"Mr. Sparks: Yes.

"The Court: I will let that stand.

"Mr. Sparks: Exception. 4077

"Q. When did you buy this; how did you procure it? A. I sent to Brother Anderson in Boston.

"Q. Did you send the money for this? A. Yes.

"Q. You had this in camp with you?

"Mr. Sparks: I take one objection and exception to all this line of testimony.

"The Court: Yes, it may apply to all books he purchased and distributed as to all the defendants without being repeated.

"Q. Did you get them all at one time? A. Yes, I got all at one time.

"Q. Where did you send the money? A. I sent to Mr. Anderson to Boston.

"Q. What did you do with the books when you got them? A. I believe I was overjoyed with the truth in the books; I was anxious and zealous everybody would see the truth, and, therefore, I was zealous to help along the poor people, so their eyes might be opened.

4079 "Q. I asked you what you did with the books. A. I left some in the Y. M. C. A.

"Q. Whereabouts in the Y. M. C. A.? A. There is about five or six in each camp.

"Q. What camps? A. At least at Camp Devens there are about six there.

"Q. When did you leave those there? A. I left them among the other books, so the boys could have a chance to read and rejoice over the truth.

"Q. I asked you where did you put them. A. I left them with the other books.

"Q. In the library? A. Yes.

"Q. How many other books did you put in the library? A. Nine volumes.

4080 "Mr. Sparks: This is all under my objection and exception.

"The Court: Yes."

15. The Court erred in the statement that these defendants did not have a right, under the law, to publish anything which would lead folks to take that position (*i. e.*, refuse to put on a uniform) or encourage them to take that position without the explanation that it was the intent to accomplish such results, which was unlawful.

"Q. You have never put on a uniform? A. No, sir.

"Mr. Sparks: I object; immaterial. His actions are not binding on these defendants.

"The Court: A doctrine set forth in a book—

"Mr. Sparks: He has a right under the law to do that.

"The Court: That is true. These defendants did not have a right under the law to publish anything which would lead folks to take that position, or encourage them to take this position.

4082

"Mr. Fuller: We want to take an exception.

"The Court: Do you claim they did? Do you claim these defendants had any right to publish anything to encourage, or tend to encourage others to object to becoming soldiers?

"Mr. Sparks: We make no claim to your Honor's question. Simply take an exception.

"The Court: There being no claim made by the defendants and no statement by the defendants why the statement is not accurate, the statement may stand, subject to your exception. You cannot lead the Court to make error here. If error is committed, you may state the ground of your objection.

4083

"Mr. Fuller: The statement is, I disagree to your Honor's question; as I understand you to make it, your Honor has stated the defendants had no right to publish a book which might lead soldiers to decline to perform their legal duty. I think that statement would be—

"The Court: We are not grinding so fine as that. A person intends the nature and consequence of their act. If you publish a book, set forth a doctrine that it is wrong to become a

soldier, the only reasonable conclusion that can be drawn from that is that you would intend folks to believe what is printed. You would hardly be expected to draw the inference that the authors who printed the book expected the members of the military forces to believe the opposite set forth in the book.

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"Mr. Sparks: My objection called for a legal ruling upon the question put to the Court. Instead of getting a legal ruling from the Court on my objection, I got a question from the Court on my personal opinion on the law, and then a statement of your Honor's interpretation of the law, which was uncalled for by my objection. Simply a ruling. That's what I am taking an exception to."

16. The Court erred in overruling the objection of counsel for defendants to the following questions to the witness Inaberg:

"By Mr. Oeland:

"Q. Did you refuse to put on a uniform? A. Nobody asked me to put a uniform on.

4086

"Q. Have you ever had on a uniform? A. No.

"Mr. Sparks: I object as immaterial.

"The Court: Overruled.

"Mr. Sparks: Exception.

"Q. You say you were not requested to put on a uniform by any of the officers? A. No, sir.

"Q. Weren't you offered a uniform by the Quartermaster Corps? A. No, sir.

"Q. They never offered you a uniform? A. No, sir.

"Q. Have you done any drilling? A. No, sir.

"Q. Have you refused to drill? A. Yes.

"Q. Have you refused all work that has been asked of you, or commanded of you?

"Mr. Sparks: I object, on the ground, first, that what he has done according to his conscience is not binding upon these defendants, that at the present time no conspiracy has been shown; in the second place, no connection between any of the defendants and this witness; and, third, upon the ground that the law itself expressly provides in a case of this kind that no military authority should compel him to do or serve in any military forces to be raised under the Selective Act. There is an express provision of the law itself. You are trying to impeach this witness for doing something which the law says no person shall do, what the law says he shall not do.

4088

"The Court: Did you say impeach him?

"Mr. Sparks: Yes.

"The Court: This is not impeaching him.

"Mr. Sparks: Not in the sense your Honor uses it, in the sense you make out of your own witness discredit him before the jury.

"The Court: It is no discredit showing what he did, what course he has taken, what attitude."

4089

Also in refusing the request of counsel for the defendants to instruct the jury as follows:

"Mr. Sparks: Unless your Honor directs the jury he had the right to refuse to do military service, then you discredit him before the eyes of the jury. I ask your Honor to instruct the jury if this man, under the Selective Service Act, is a conscientious objector, could not be

4090

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compelled to serve in a military force organized under the Selective Service Act.

"The Court: Proceed.

"Mr. Sparks: I take an exception to your Honor's refusal to charge."

17. The Court erred in overruling the objections of counsel for the defendants to the following questions to the witness Insberg:

"By Mr. Oeland:

4091 "Q. Since you have been called, have you done anything to defend the Constitution or laws of the United States?

"Mr. Sparks: I object to it upon the ground that the law—that the laws themselves and the President's rules and regulations expressly cover this man's case, and in fact, the President's rules and regulations go so far as to say that a person who does claim, leaving out entirely the question of his bona fide—a person who makes a claim to be a religious or conscientious objector shall not be compelled to do anything more than this man has already done and the question assumes that he has not done something which the President himself says that he cannot be required to do, and permits him to do the only thing which he has voluntarily done.

4092 "Question allowed. Exception.

"The Witness: I can't answer in one word; I will have to make an explanation.

"Q. Have you done anything to defend the laws or Constitution since you were drafted? A. I have nothing against the laws.

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4093

"Q. Have you done anything to defend? A. No. I believe the laws are righteous.

"Q. Have you done anything?

"Mr. Sparks: I object to it. It is not specific and doesn't inform the witness as to what counsel means by has he done anything.

"Question allowed.

"The Witness: I have nothing against the laws.

"Q. Have you done anything to defend the laws or Constitution since you have been drafted as a soldier? A. What do you mean to do anything; you mean to defend the laws, go over in France and fight?

4094

"Q. Have you done anything that you can say you have done?

"Mr. Sparks: We object. That may include whether he has washed dishes.

"Objection overruled.

"The Witness: I am willing to defend the laws.

"Q. What have you done since you have been called to the colors?

"Mr. Sparks: We object to it as not the issue in this case, prejudicial to the defendants, and improper on re-direct and cross-examination of their own witness.

4095

"Question allowed. Exception.

"(No answer.)"

18. The Court erred in overruling the objection by counsel for defendants to the following questions to the witness Insberg:

"Q. If you can't answer it, I will pass to something else. You say you believe in the laws and when you were drafted and taken to camp you immediately deserted and ran away, didn't you?

"Mr. Sparks: We object to it as improper and prejudicial to the defendants and not the issue in this case.

"The Court: Because it is prejudicial to the defendants is no reason why it should not be admitted. The question will be allowed.

"Defendants except.

"Q. You understand the question? A. I understand.

"Q. What is your answer? A. Just as I said a while ago."

Also on the Court asking the witness the following question:

"By the Court:

"Q. Did you run away, desert and run away? A. Yes, sir."

19. The Court erred in making the following remarks characterizing the testimony of the witnesses Agnes Hudgings and Mabel Campbell to the prejudice of the defendants with the jury:

"The Court: I might say to you, Mrs. Hudgings, that we must have full, true, direct answers to all these questions that are asked you which the Court decides are proper. Your answers thus far have seemed to be evasive.

"Mr. Fuller: I except to these remarks of the Court, on behalf of each of the defendants.

"Mr. Sparks: I ask that the witness be permitted to make the statement that was called out by the Court in view of the characterization of the Court's question to her. I ask that she be permitted to make her statement for the record.

"The Court: She may make any statement she desires to.

"The Witness: I was about to say that I gave an oath that I would tell the truth and the whole truth as nearly as I was able to, and that I would not identify the stamp for the reason that I could not. That I did not know the stamp plainly enough so I could identify it, and therefore do not wish to give false testimony.

"The Court: This second witness seems to be taking an attitude that the Court can't permit to continue. Now, the Court has great power as to compelling a witness to answer and answer directly, and has much power in case a witness is evasive in answering. This is rather extraordinary and in the case of the other witness, I had her withdrawn, thinking that likely counsel for the defense would advise her, of someone else. Now, the question here is not for you to identify this stamp; the question was if it looked like the one you saw this person use. Ask the witness whether she was the one that used the stamp in stamping letters. 4100

"Mr. Sparks: I take exception to the Court's remarks and the general character of it, as tending to make the witness say something which she has already stated she could not do. I take, also, exception to that part of the Court's remarks in which he says that he suggested that the previous witness might be withdrawn in order that counsel for the defense or someone else might advise her, not knowing what counsel could advise her to do in view of her testimony and in view of the position of counsel for the defendants, that the witness could 4101

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not possibly answer the questions that were propounded to her by the Court and counsel.

"The Court: The Court is very much inclined to believe that the former witness could answer the questions, and that the answers that she was giving were not true answers, and while I would not deal with her hastily, I became convinced if that was the case I should deal with the witness for contempt of court and perhaps in other directions, because that would be the plain duty of the Court under such circumstances.

4103

"Mr. Sparks: We take exception to those last remarks of the Court and in view of them we ask for the Court to declare a mistrial and the withdrawal of a juror.

"The Court: The motion will be denied and an exception will be noted on behalf of the defendants."

20. The Court erred, during the testimony of the witness Mrs. Hudgings in asking counsel for the Government the question: "Is that something which was distributed by this concern?" thereby calling for statements by counsel for the Government in lieu of sworn proof:

4104

"The Court: Will you find out what printer printed this sheet that is printed in Italian?

"The Witness: I do not know; I never saw it before.

"The Court: Will you try and find out the printer who printed it and when you come back on Monday at ten o'clock, tell us?

"The Witness: Yes, sir.

"The Court: Is that something that was distributed by this concern?

"Mr. Oeland: We expect to show it before we finish.

"Mr. Sparks: That statement is not taken as any evidence in this case. Your Honor's statement in connection with the answer of the District Attorney. I ask the Court to instruct the jury to disregard the question of the Court and the answer made by the District Attorney.

"The Court: The Court declines so to do, and is very proud of the conversation of what the true intent of the meaning was. I am not going to instruct this jury every fifteen minutes at your request. Your requests come too frequently. 4106

"Mr. Sparks: I take an exception

"The Court: The jurymen understand some things. They do not need to have instructions here every five minutes. I was pretty generous with you at the start and your requests came too often and too quick. If you have any exceptions to take, take them.

"Mr. Sparks: I want to take an exception to the District Attorney's statement that the pamphlet which is not in evidence was published by this association. 4107

"The Court: He didn't say that. He said he expected to show that before he concluded his case. That is what he said. Call your next witness."

21. The Court erred, during the testimony of the witness Adams in admitting in evidence Exhibit 23, being an order for reprinting of the pamphlet known as Volume 8, Number 4, given by the corporation Watch Tower Bible & Tract Society, there being no proof connecting the defendants with said order:

Assignment of Errors

"EDWARD ADAMS, a witness for the Government, was duly sworn and testified as follows:

"Direct-examination by Mr. Oeland:

"Q. What is your business? A. Printing and binding.

"Q. Did you do any printing in the latter part of 1917 for the Watch Tower Bible & Tract Society? A. Yes, sir.

"Q. Did you print what is known as the 'Bible Students' Monthly'? A. Yes, sir.

4109 "Q. Just tell the jury how you printed that; I mean by that did you have reprints of certain issues? A. The Watch Tower Bible & Tract Society furnished the plates of various issues of the 'Bible Students' Monthly,' and we have printed the 'Bible Students' Monthly' tracts as their orders have come in.

"Q. In other words, you had the plates and as you got orders from them— A. (Interposed.) Yes; we would print and reprint them.

"Q. Did you have a reprint of Volume 8, No. 4? A. Yes, sir.

"Q. Of the 'Bible Students' Monthly,' at any time in 1917? A. Yes, sir.

4110 "Q. What date? A. October 4, 1917.

"Q. That was the reprint of Volume 8, No. 4? A. Yes, sir.

"Q. How did you get an order for reprinting that? A. That is the way the orders have been submitted to us for printing. The written orders.

"Q. Is this the way the order would come in to you? A. Yes, sir.

"Q. Did you receive that order on or before October 17th? A. Yes, sir.

"Mr. Oeland: I offer that in evidence.

"Mr. Sparks: Let us see it. (After examination): I object on the ground that it is in no

Assignment of Errors

4111

way connected with any of the defendants in this action.

"The Court: It will be admitted.

"The paper was received in evidence and marked Government's Exhibit No. 23.

"A. Yes, sir.

"Mr. Sparks: Exception.

"Q. Is this the matter that you reprinted? A. We have printed this number. I could not say whether this is the exact issue. It may be a copy of it.

"Q. I did not ask you whether it was the issue. I asked you on that order you reprinted that issue? A. Yes, sir.

4112

"Q. The same matter as in Exhibit 14 for identification, this is the original of which you made a reprint? A. I want to say there is an advertisement on the back of here. That I could not say that we have done, but we have done this issue, but whether it had on this advertisement or not that is mentioning certain lectures then, but we have printed eighty-four with the exceptions of the advertisement on the back.

"Q. In other words, it had some other matter in it as Exhibit 14, except for the possible advertisements on the back? A. Yes, sir.

4113

"Q. There is no change in page two or three of the reprint? A. No, sir.

"Q. That is the same, is it? A. Yes, sir.

"Q. Now, what did you do with these ten thousand copies? A. This small issue of ten thousand copies were usually delivered to the Watch Tower Bible & Tract Society.

"Mr. Sparks: I object to the answer.

"The Court: It will be admitted.

"Mr. Sparks: Exception.

4114

Assignment of Errors

"Q. Did you print any more reprints of Volume 8-4?
A. No, sir.

"Q. In 1917? A. No, sir.

"Q. And that was done after October 4th? A.
Yes, sir.

"Q. Can you tell how soon after that? A. Prob-
ably within two days, two or three days.

"Q. Who paid you for the reprint? A. The Watch
Tower Bible & Tract Society."

4115

22. The Court erred, during the testimony of the
witness Adams, in admitting the Exhibit No. 24 in
evidence, being the pamphlet known as Volume 8,
No. 4, there being no proof connecting the defendants
with the said pamphlet:

"Mr. Oeland: We offer this in evidence.

"Mr. Sparks: We object on the ground that
it is incompetent and immaterial, and has no
connection with any of the defendants.

"The Court: What is the nature of it?

"Mr. Oeland: It is a description of a sol-
dier, and it is a pamphlet sent out.

"The Court: You mean they sent this out
generally?

4116

"Mr. Oeland: Yes, sir.

"The Court: And you will show it was in
the hands of some military person?

"Mr. Oeland: Yes, we expect to prove that.

"The Court: I am inclined to take it when
you show that.

"Mr. Oeland: It is admissible to show in-
tent, if I am properly advised. We can show it
in the hands of a military police.

"The Court: Then it will be better to adopt
that course and by that eliminate one law ques-
tion, and let us take the course suggested, if

Assignment of Errors

4117

it is not inconvenient for the Government to do so. I will admit it.

'The paper was then received and marked Government's Exhibit 24 in evidence.

"Mr. Fuller: Does the date when this printing was done by the witness appear?

"Mr. Oeland: After October 4th, two or three days, in 1917. We offer in evidence a portion on page 2, beginning with 'quite in contrast'—

"Mr. Sparks: Has your Honor admitted this?

4118

"Q. Is this the one that you identified or is this the one here? A. This is the one, 8-4.

"Mr. Sparks: We take an exception to the admission of that.

"(The paper was then read to the jury.)"

23. The Court erred in allowing the witness Adams to testify to the figures of the circulation and distribution of the pamphlet known as Vol. 9, No. 1, said pamphlet itself being never admitted in evidence on the trial:

"Q. Did you have a reprint of Volume 9, No. 1— these are not dated? A. Yes, sir.

4119

"Q. What date was the reprint of Volume 9, No. 1? A. Reprint of Volume 9, No. 1, as late as—

"Q. Look at your order, if you have got your order there? A. I have not got them in rotation as to dates, but I can be safe in saying that we have reprinted them in February and April.

"Q. I want you to find the order? A. How late would you want me to go with them?

"Q. Any time from July, 1917, up to the present time or upwards to May 6th, 1918? A. July, 1917.

Assignment of Errors

"Q. How many volumes did you reprint them? A. 100,000.

"Q. In July, 1917? A. Yes, sir.

"Q. What date in July? A. July 10th.

"Q. Where did you get your order from? A. I got that from the Watch Tower Bible & Tract Society.

"Q. Who paid for it? A. The Watch Tower Bible & Tract Society.

"Q. What was done with the hundred thousand? A. Well, I had shipping orders. I shipped them all over the country.

4121 "Q. Did you get subsequent orders; you said you got in July 100,000 of these? A. Yes, sir.

"Q. And did you get subsequent orders in August, September and October? A. Yes, sir.

"Q. You had how many orders—and then you take where you distributed them?

"Mr. Sparks: I object to his reading out what the orders were that he got unless he puts them in evidence.

"Mr. Oeland: I have no hesitancy in putting the orders in evidence.

4122 "A. I have them here in August, September, October and November but they run continuously.

"Q. Give us the approximate numbers? A. Here is one for twenty.

"Q. Twenty what? A. 20,000 and 66,000.

"Q. What dates are those? A. The 20,000 was on August 15th.

"Mr. Sparks: I object to that unless the order is put in.

"The Court: It is admitted. He is merely using his papers to refresh his recollection. If, on cross-examination you want them put in you may have them.

"Mr. Sparks: Exception.

Assignment of Errors

4123

"Q. Proceed. A. August 12th, 66,000; November 16th, 20,000, November 13th, 25,000—

"Mr. Sparks: The same exception to all of this.

"The Court: Yes, an exception to anything you ask for.

"A. (Resuming): No, November 12th, 30,000; September 22nd, 22,000; September 21st, 10,000; August 11th, 20,000.

"Q. That is all in 1917? A. Those are all 1917.

"Q. What did you do with them when they were printed? A. We were shipping them according to shipping order, we received. 4124

"Mr. Sparks: I object unless the orders are produced.

"The Court: It is admitted.

"Mr. Sparks: Exception.

"Q. Just give a general outline of where they were shipped to, without giving the details. A. Yes, sir. They were shipped—I have here 713,000 shipped to Colorado, Washington, Missouri, Ohio, Washington, Missouri and Illinois. All over the United States at various cities. 4125

"Q. And this Exhibit 12 for identification, Volume 9, No. 1, is what you reprinted, is it? A. Yes, sir.

"Q. And the subject-matter on the front page was reprinted as appears in that volume? A. Yes, sir.

"Q. And distributed as you have stated? A. Yes, sir.

24. The Court erred during the testimony of the witness Jerry De Cecca in admitting in evidence the letter marked Exhibit 24 without proof that it was written by the defendant De Cecca or any other defendant.

Assignment of Errors

"Q. Did you see your brother when you were on the train? A. Yes, sir.

"Q. Did he give you this letter to take with you (handing witness a letter)? A. Why, I don't know as he gave me this letter.

"Q. Well, did he give you one like it?

"Mr. Fuller: I object to it because it calls for a conclusion.

"The Court: It is admitted.

"Mr. Fuller: Exception.

4127 "Q. You mean you do not think that is the exact letter he gave you, but he gave you one that had the same written matter as that in it? A. Why, yes, sir.

"Q. What did you do with the one that he gave you? A. I know now this was not the letter he gave me.

"Q. What did you do with the one he gave you? A. I destroyed it.

"Q. Well, is that a copy of the letter he gave you?

"Mr. Fuller: I object to this. That is a conclusion of the witness whether this is a copy. The original is lost or destroyed—

4128 "The Court: The original is lost or destroyed and a copy may be used.

"Mr. Fuller: If this is the copy?

"The Court: He says it is. We will not discuss that.

"Mr. Sparks: We make the same objection and the same exception.

"Q. I ask you if that was a copy of the letter he gave you? A. Well, I could not say that is the copy. It is something like that. I do not know whether it is copy or not.

"The Court: Mr. Reporter, will you look back and see what the witness says about that?

Assignment of Errors

4129

"(The reporter read back the several previous questions and answers.)

"The Court: Now, read the letter and see if it is like the one you got?

"The Witness: I believe the letter he gave me was like this one.

"Mr. Sparks: I ask the privilege to cross-examine him on that.

"The Court: The privilege is denied.

"Mr. Sparks: Exception.

"Q. Is that a copy of the letter he gave you?

4130

"Mr. Sparks: I object to the form of the question.

"A. I do not know if it is a copy, but it is the same.

"Q. It reads the same? A. But—there may be some words different. I could not remember all the words.

"The Court: You think it reads the same, don't you?

"The Witness: Yes, sir.

"Mr. Oeland: I offer it in evidence.

"Mr. Sparks: I object to it as not binding on the defendants. 4131

"The Court: It is admitted against the man who wrote it.

"The paper was received and marked Exhibit 24, in evidence.

25. The Court erred during the testimony of the witness Jerry DeCecca in making the following remarks, unwarranted by the testimony, tending to prejudice the defendants by reflecting upon the integrity of their counsel and in admitting in evidence the

letter marked or designated Exhibit without proof that it was written by the defendant DeCecca or any other defendant.

"Q. And now, you wrote a letter to your brother Giovanni, Giovanni in Italian means George? A. John.

"Q. You wrote him a card on the 17th of October, 1917? A. I do not remember if I did or not.

"Q. Did you write to him? A. I know I wrote to him at times.

4133 "Q. Did you get a letter back from him? A. Why, I believe I received some mail from him.

"Q. Did you get this letter in the course of the mail (handing witness letter)?

"Mr. Fuller: I object to the form of the question. I think it is ambiguous. It is the same piece of paper that the witness holds. How does the witness know whether that is a paper with the same contents? There is a confusion of mind with respect to a similar question.

"The Court: The witness will understand that. If it so appears, I will help him out.

4134 "A. I remember receiving a letter like this.

"Q. Well, didn't you receive that letter? A. I could not say if that was the letter.

"Q. What did you do with the letter that you got from your brother? A. I beg your pardon?

"Q. What did you do with the letter you got from your brother? A. I had some letters and Lieut. Hall took them. I do not know whether he took them or not.

Assignment of Errors

4135

"The Court: Was this letter addressed to you?

"The Witness: What I say is I do not know if this is the very letter.

"The Court: Look and see if this is addressed to you.

"The Witness: Yes, sir; it starts here. The envelope is not here.

"Q. Well, the letter itself is addressed to you? A. That is my name: "Dear Jerry."

"Q. Well, now, didn't you get that letter, and wasn't it taken up by Lieut. Hall? A. Well, I say I did not put any mark on the letter.

4136

"The Court: Are you giving heed to the suggestion made by counsel that you received that and you do not know the letter or one like that?

"The Witness: I said I received one like it.

"The Court: What is there about that that makes you think that you did not receive that?

"The Witness: Nothing in particular.

"The Court: And you have known of getting two letters exactly alike?

"The Witness: No, sir.

"The Court: Why did you anticipate there was?

"The Witness: I do not know. There might have been.

4137

"The Court: What makes you think that?

"The Witness: I have no reason for it.

"The Court: Then why do you say that?

"The Witness: Because I want to tell the truth.

"The Court: You have no reason whatever for expecting that there was another letter, the exact duplicate of that; that is a personal letter from your brother to you?

"The Witness: Yes, sir.

"The Court: And you read it all through carefully?

"The Witness: Yes, sir.

Assignment of Errors

"The Court: Now, what reason is there for you saying that you might have had one exactly like it?

"The Witness: Well, that is the most truthful way that I can answer.

"Q. Well, in your opinion, isn't that the letter or a copy of it? A. The letter I had—

"Q. (Interposed.) In your opinion, isn't that the letter?

"The Court: The witnesses give some extraordinary answers here today.

"Mr. Fuller: If your Honor please, I object to that remark.

"The Court: Well, enter your objection and take exception to it.

"Mr. Fuller: Exception.

"The Court: This is very extraordinary, in view of the objections you make, and this witness listens to what you say and almost adopts the very words and the theory that you adopt.

"Mr. Fuller: I cannot help that.

"The Court: The witness can help it, and the Court can.

"Mr. Fuller: I cannot say—

"The Witness: I cannot see that I can answer different.

"The Court: What is that?

"The Witness: I do not see how I can answer different than what I said. I received a letter that was like it and this may be it.

"The Court: Don't you think that is it?

"The Witness: I have an idea that it is.

"Mr. Oeland: I offer it in evidence.

"Mr. Sparks: We object to it as to all of the defendants.

"The Court: We will not admit it except as

to the one present. It is admitted against the writer.

"Mr. Fuller: As far as the defendant De-Cecca is concerned, I object. It has not been proven that he wrote the letter.

"The Court: It is overruled as to him.

"Mr. Fuller: I take an exception.

"The letter was then received in evidence and marked Government's Exhibit No. , and was read to the jury."

26. The Court erred in overruling the following objection of counsel for the defendants to the letter Exhibit , and in admitting said letter in evidence. 4142

"Q. I show you a letter dated June 14, 1917, and ask you who signed that letter?

"Mr. Fuller: May I cross-examine the witness for a moment?

"The Court: You may ask him any question in cross-examination in respect to the issuance of the letter.

"Mr. Fuller: I have found something that corrects my opinion. I wish to object on behalf of all of the defendants except DeCecca, on the ground the letter is not binding on them, therefore it is incompetent, irrelevant and immaterial as to those defendants. 4143

"The Court: I will admit it against the defendant who wrote it, for the present.

Mr. Sparks: I also object on the ground that the person writing it, under the Selective Service Law, had a perfect right to write it. It is written from one blood relative to another, and in answer to an inquiry as to certain rights had under the Selective Service Law.

4144

Assignment of Errors

"Mr. Fuller: Exception. Did I understand this is in for the time being, admitted as to the other defendants or not, for the time being, admitted to the other defendants?

"The Court: Not for the time being.

27. The Court erred during the testimony of the witness DeCecca in making the following remarks prejudicial to the defendants:

4145

"Q. I hand you two sheets of paper and ask you if, around November 16, 1917, you received that letter by mail from your brother?

"Mr. Fuller: I haven't seen the letter yet, but I think 'from your brother' is not proper at this time.

"The Court: I think it is very proper; that merely identifies the letter.

"The Court: Do you have to read it all in order to tell whether you received it?

"The Witness: I believe I am convinced I did receive it.

"Mr. Oeland: We offer it in evidence.

4146

"Mr. Fuller: I don't want to take time to read this.

"The Court: You may let counsel read them, and then take such exceptions and objections after they are read, and they will be treated—

"Mr. Oeland: Those were in the indictment.

"The Court: Of course, it is quite a delay. The witness reads the letter, counsel reads the letter, perhaps the Court reads it. It duplicates work. It might be just as well to let it be read aloud, and take exception, and treat them the same as if they were made before the letter was read.

"Mr. Fuller: I want to except to the acceptance against any defendant except DeCecca, on the ground that it is not binding on any of the other defendants.

4147

"The Court: That depends upon whether there is any evidence in the case before the Government rests, tending to show conspiracy. If there is evidence tending to show conspiracy, it is admissible against all conspirators; therefore, I believe I should admit it for the present as against the author.

"Mr. Fuller: Only.

"The Court: Only.

"Mr. Fuller: I want to object to this, to its use against DeCecca only, on the ground it appears to be a letter written by some mechanical process, I have forgotten the term; these letters they used to gelatine, there is no proper testimony or evidence, a typewritten letter, that it was written or forwarded by the defendant.

4148

"The Court: He says he received it from his brother.

"Mr. Fuller: I object. The mere inference is drawn, except the name is signed in this mechanical form by the name which belongs to his brother.

"The Court: I think that is a question of fact.

4149

"Mr. Fuller: I don't realize that it was in the indictment.

"The Court: I think it is a question the way the evidence stands, it is a question for the jury to say whether he did, in fact, write it.

"Mr. Sparks: Is that the way it was received, signed mechanically, not in his own handwriting?

"Mr. Fuller: Yea.

"Mr. Sparks: That is not a copy.

4150

Assignment of Errors

"The Court: I don't think it makes any difference how the letter is signed, whether it is signed with a pen, pencil, typewriter, rubber stamp, or whether it is not signed at all. It is the expression of the author. It is just as binding, just as admissible.

4151

"Mr. Sparks: He wouldn't know whether it was from the person he says if it was not signed by him. If it is not signed at all, it might be the work of some person, and if signed mechanically, he might be some other person who wished to do him harm. That is the purpose of proving the person who had written it.

"Mr. Fuller: We object on the ground the letter is written from one blood relative to another and properly so, under the Selective Service Act, and giving advice to him, which advice he had a right to give.

"Received in evidence and marked Exhibit No. 27.

"The Court: You may see the letter. You know your brother's handwriting, do you not?

4152

"The Witness: I believe if I saw it, I might say whether I knew it or not.

"The Court: Here are two or three words.

"Mr. Oeland: I think that was put on.

"The Court: That may be in his handwriting. You had better ask about that. Did you answer that letter you received from your brother?

"The Witness: I cannot say that I did, your Honor.

"The Court: Have you any recollection about it; that is a long letter, a very long letter you received from him. It is singular you haven't any recollection.

"The Witness: It is a long time ago.

Assignment of Errors

4153

"Q. Look at this and see if this is not a reply that you wrote in response to this letter? A. I did write this letter.

"Q. Wasn't it in response to this letter you received from your brother? Wasn't the letter you hold in your hand written in response to the letter of November 14, 1917? A. It is written after that. I couldn't say if it is in response.

"Q. Didn't you give him some information he referred to or wanted in his letter? Didn't he want to know the names of the officers you claimed had been mistreating him? A. I did write him.

4154

"Q. Didn't you do it in response to this letter of November 14th?

"The Court: Read that part of the letter. We are receiving many answers here to the effect that the witness does not remember.

"The Court: Mr. Witness, it is just as necessary for you to answer correctly and the answer that you don't remember is just as wrong as any other answer you could possibly give, if you do remember.

"The Witness: This don't seem to be any response to that letter.

"Q. And didn't he say, 'If they mistreat you in such cruel manner, I would make an affidavit,' and reading down to 'and send an affidavit to the society.' In place of sending an affidavit didn't you send him a letter and give him a name? A. Yes.

4155

"Q. Beginning, 'I understand Brother Nicica,' and reading down to 'in which we were abiding,' in answer to that inquiry as to who was mistreating you, didn't you write him that letter? A. No, sir.

"Q. What was the occasion of writing that? A. Because Brother Nicica was in the guard house, we

4156

Assignment of Errors

felt it was then unjust and that if we were to let Major Pardee know the situation, he would see that things would be straightened out.

"Q. Didn't you write that information to your brother in response to the letter of November 14, 1917? A. Is that that letter there?

"Q. Yes. A. No, sir.

"Q. And you say you did not answer this letter? A. I don't remember answering that letter.

4157

"The Court: Ask him if that letter you hold in your hand is an answer the witness previously wrote to his brother.

"Q. Does this refresh your recollection, 'Your letter of the 10th of November, written together with Brother C. Nicica was received'? Who is C. N.? A. Carmelo Nicica.

"Q. 'Glad to hear from you, glad to know you are well,' and ending with 'to carry.' Did you write him a letter of November 10th?

"The Court: As he says in his letter.

"A. If he received a letter that time, I should say yea.

4158

"The Court: Without regard to what he says, don't you remember writing him a letter, as he says in the answer?

"Q. Your letter written with C. N.?

"The Court: Did you and C. N. write him?

"The Witness: Carmelo Nicica wrote letters. I would say if you write him give my love, that would be my letter.

"The Court: He refers to it as your letter.

"Q. 'Your letter of November 10th with C. N.," didn't you have a habit of writing and all signing? A.

Assignment of Errors

4159

No; Brother Nicica would write the letter and I would tell him.

"Q. Didn't you all frequently write a letter and sign it? Didn't you, two or three, write a letter and sign it and send it out? A. Yea.

"Q. Who did you write to then? A. Brother Ruth-
erford.

"Q. Don't this refresh your recollection that either you or Nicica had written him a letter on November 10th, to which this was a reply? A. I don't ever remember replying to that letter.

"The Court: Does that statement in your brother's letter refresh your recollection?

4160

"The Witness: I would say I never answered that letter.

"Q. The Court asked if the letter where he says: 'Your letter of November 10th, written together with C. N. was received,' does that refresh your recollection that you or Nicica wrote him a letter and this was a reply to it? A. No, sir.

"The Court: Did you have a letter in your possession for some considerable time?

"The Witness: I believe I did.

"The Court: Who took it away from you; how did you lose possession of it?

4161

"The Witness: I don't know for sure, but it was possibly Lieut. Hall.

"The Court: How do you say possibly? Don't you know you parted possession with that letter?

"The Witness: I can honestly say I do not.

"Mr. Sparks: May I suggest the Court ask him the circumstances, how it was taken away or how he came to miss it?

4162

Assignment of Errors

"The Witness: I had letters. I never paid much attention to my letters. When Lieut. Hall came to take possession of my letters I don't know what I had. I gave him all I had. I don't know that there was anything in there that anybody would be ashamed to show. I don't know what Lieut. Hall took.

"The Court: That is a long letter. The way he starts out, you reflect on that a little and see if you haven't any recollection of writing a letter in connection with Carmelo Nicita.

4163

"Q. Brother Nicita?

4164

"The Court: This Brother Nicita to your brother, when that letter came have you any recollection whether you showed it to Brother Carmelo Nicita and you read it together? There are a good many circumstances in this letter that ought to be useful in refreshing recollection. You just think that over and see if you can answer counsel. This is what transaction? It is quite a long story in the letter. There is quite a lot of detail to it. Brother Nicita—the fact that Brother Nicita had to do with writing to your brother with yourself, and the letter comes back to both of you, seems to me, Mr. Witness, ought to be quite helpful to anyone in refreshing their recollection, and the answer that the witness does not remember is, as I stated before, just as wrong as to say no when it should be yes. If the answers come to that effect too often, I don't remember, when apparently the witness ought to remember, or does remember, or couldn't help but remember, why, the Court will not allow such answers to be made. We had quite an experience to that effect last week when a couple of young ladies who were stenographers were on the stand. I want you to fully understand the situation. This will not be allowed to go on here in-

Assignment of Errors

4165

definitely this way, unless there is reasonable doubt that the answer, 'I don't remember,' is a true answer, a just answer, a fair answer.

"Mr. Sparks: I take an exception to the Court's remarks as tending to be prejudicial to the defendants.

"The Court: The exception will be noted. You should not construe what the Court said, gentlemen of the jury, as prejudicial to anyone. It is manifest to the Court, it seems to be very plain to the Court, that the Court has a duty to perform in the trial of this case with respect to compelling witnesses to testify. Quite often some witnesses have the notion that if they don't remember or can't remember, they have the notion, I say, that that is an answer, that that relieves them of the situation, of all responsibility. That is always a mistaken notion. It is just as wrong for a witness to say in court he does not remember when he does remember, or say his recollection is not refreshed when it is refreshed, as it would be to testify to anything else not true. I think the Court should explain fully to these witnesses; give them ample time. This action of the Court should not reflect against the defendants or the Government. This is one of the situations met in the trial of cases quite often. Of course, if a witness persistently says he don't remember, when it is apparent to everyone that he does remember, the answer is not a true answer, we can stop the progress of any trial, and hamper the Court so that we could not accomplish anything, and prevent the trial. It is a great injustice to the Government or the defendant. Now, because the Court, there-

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fore, was going to act as it thinks its duty requires, that should not prejudice anyone. Let us meet the situation as we find it. Nothing appears in this trial, so far, that the defendants or the defendants' counsel are responsible for the attitude taken by this witness or the two young lady stenographers on the stand last Friday. The Court would not be justified in drawing such an inference.

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"Mr. Sparks: Like the last remarks of your Honor, I will have to take an exception to the remarks that preceded that.

"The Court: The exceptions of the defendants should stand, and may apply to all that the Court has said, and each part thereof. If there is anything further that counsel for the defendant suggests that the Court should say to the jury in order to prevent any inference being drawn against the defendants, the Court will be very glad to do so, but I think that it would be mockery for the Court to sit here and not do what it has done, and do what it intimates it will do if the witness continues to give those answers, if the Court is thoroughly satisfied that they are evasive. We can tell the witnesses to testify to what they know, to testify truly, and not to be evasive.

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"Mr. Sparks: If your Honor is finished, I may take another exception to your Honor's statement."

28. The Court erred during the testimony of the witness Nicita in the following remarks unwarranted by any evidence and prejudicial to the defendants:

"Q. How long after you got to camp was it you got a letter purporting to be the D'Onofrio letter? A. I

told you before I don't remember if I received one week or two weeks after.

"Q. Didn't you pull off your uniform after you got that letter? A. I had the uniform before that letter.

"Q. How long after you were in camp did you pull off the uniform?

"Mr. Sparks: I object, not binding on the defendant, his action.

"The Court: It may or may not be. They wrote the letter telling him to pull off his uniform.

"Mr. Sparks: This letter does not purport to do anything of the kind. This is the D'Onofrio letter, so-called, read to the jury, there is no suggestion in the letter at all that he should take any action like that. And whatever action he may have taken, as the result of this particular letter, would be only against the writer, D'Onofrio, who is not a defendant.

"The Court: If the defendant sent out a copy of his letter that would be adopting it.

"Mr. Sparks: The only person who sent it out, if anybody, is DeCecca, it wouldn't be admissible against anybody else. It couldn't be admissible against anybody but DeCecca, and the action, if the person took any, could not be admissible against anybody but DeCecca.

"The Court: That might be so.

"Mr. Fuller: It seems to me this proof of his taking off his uniform, while it may be connected up, it is not at this time, and it should not be used in the guise of an attempt to take his uniform off. It is not binding on these defendants. He said he put on a uniform Friday and took it off after two weeks later. Instances that happened might have a bearing on why he

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did not put it on again, but they could not have a bearing on why he took it off.

"The Court: That wouldn't harm the defendant. The jury won't consider that evidence against them unless it is made to appear the letter was the moving cause of his pulling off his uniform. I hardly think that would harm the defendant.

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"Mr. Sparks: The suggestion is contained in the question itself that that was the moving motive of taking off his uniform, because he did it after the receipt of the letter, and this witness is so uncertain as to the time, that I think that the implication from the answer yes would not be correctly stated in view of what he said.

"The Court: Notwithstanding what the witness may say that he did not take off his uniform by reason of the letter, or that he did, it is a question of fact for the jury to say what was the reason of taking off the uniform. You may take the answer subject to the objection and exception of the defendants.

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29. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant McMillan on the first count of the indictment.

30. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant McMillan on the second count of the indictment.

31. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant McMillan on the third count of the indictment.

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32. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant McMillan on the fourth count of the indictment.

33. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Fisher on the first count of the indictment.

34. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Fisher on the second count of the indictment. 4178

35. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Fisher on the third count of the indictment.

36. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Fisher on the fourth count of the indictment.

37. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Woodworth on the first count of the indictment. 4179

38. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Woodworth on the second count of the indictment.

39. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Woodworth on the third count of the indictment.

40. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Woodworth on the fourth count of the indictment.

41. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant DeCecca on the first count of the indictment.

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42. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant DeCecca on the second count of the indictment.

43. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant DeCecca on the third count of the indictment.

44. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant DeCecca on the fourth count of the indictment.

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45. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Martin on the first count of the indictment.

46. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Martin on the second count of the indictment.

47. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Martin on the third count of the indictment.

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48. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Martin on the fourth count of the indictment.

49. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Robison on the first count of the indictment.

50. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Robison on the second count of the indictment. 4184

51. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Robison on the third count of the indictment.

52. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Robison on the fourth count of the indictment.

53. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Rutherford on the first count of the indictment. 4185

54. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Rutherford on the second count of the indictment.

55. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Rutherford on the third count of the indictment.

56. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant Rutherford on the fourth count of the indictment.

57. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant VanAmburgh on the first count of the indictment.

4187 57a. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant VanAmburgh on the second count of the indictment.

58. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant VanAmburgh on the third count of the indictment.

58a. The Court erred in denying the motion at the close of the Government's case for the direction of a verdict of acquittal of the defendant VanAmburgh on the fourth count of the indictment.

"The Court: Well, the Government rests. What will the defendants do first?

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"Mr. Fuller: If your Honor please, on behalf of the defendant McMillan, I move a dismissal of the first count of the indictment.

"The Court: Do you rest?

"Mr. Fuller: No, sir.

"The Court: Do you mean for the Court to direct a verdict—not on the face of the indictment?

"Mr. Fuller: On the evidence.

"Mr. Sparks: I think we have a right at the end of the Government's case to move for a direction of a verdict on the evidence adduced,

just the same as a civil case we move to dismiss the plaintiff's case on the ground that they have not proven a cause of action.

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"The Court: How do we know there won't be any evidence? The proof is not all in.

"Mr. Sparks: The defendant is not put to his proof unless the Government has made out a case. He is not put in that position until the People established some evidence to show he has made out a crime. He is not called upon to put in any defense until the Government shows he has committed a crime.

"The Court: Well, we will follow your practice.

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"Mr. Fuller: Then I ask for a direction of a verdict in favor of the defendant McMillan under the first count of the indictment, upon the ground that there is no evidence sustaining the charge set forth in the first count in the indictment with respect to McMillan. That is the motion. I don't know whether your Honor has it clearly in mind—that is the first count, the conspiracy.

"The Court: The question that is doubtful with respect to Mr. McMillan is whether there is anything tending to show whether he conspired. Counsel for the Government don't claim there is any evidence tending to show he attempted to cause insubordination, disloyalty and refusal to duty or that he obstructed the enlistment service.

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"Mr. Oeland: No act against him. There are the two conspiracy charges against him.

"Mr. Fuller: I will finish the motions. I make the same motion on behalf of the defendant McMillan with respect to this charge set forth in the second count of the indictment, and I move that the Court direct a verdict for

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the defendant McMillan on the ground that there is no evidence tending to support the charge in the third count of indictment and the same motion upon behalf of the defendant McMillan with respect to the charge set forth in the fourth count of the indictment.

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"The Court: I will not dispose of it finally this afternoon, but I am inclined to grant your motion. The Court takes this view of it. The fact that he signed a check and paid a bill including an item for the publication of these books, I am not inclined to think that we should draw the inference that he knew what was in the books, and the mere fact that he took the place of the president, did his work in his absence, because of that we should not draw the inference that he did anything illegal in his business—the mere fact that he took the president's place and did his work in his absence without showing any act leading to the same result as these other acts led to, except the signing of that check—

"Mr. Oeland: There is one part of the testimony of Mr. Conkey that I want to examine before morning.

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"Mr. Fuller: I will say that our position is here so far as the charge of conspiracy is concerned that the existence of the corrupt agreement necessary to a conspiracy, the common purpose of common mind, the concerted activities of the corrupt cannot be spelled out by the evidence offered by the prosecution. With respect to the others, of course, there is a distinction as compared with Mr. McMillan—our position in respect to all the defendants is that the charge of conspiracy in itself is not substantiated because there is not enough in the case to justify a charge, a consideration of the question as to whether there was a corrupt agree-

ment. There is not any evidence of a corrupt concert of action brought home to the minds of the defendants, so I desire if I can to make a motion for a direction of a verdict on behalf of the defendant Fisher, and I would like to say just a word in respect to him. I move that a verdict be directed in his favor upon the first and second counts of the indictment and upon the ground that there is not sufficient evidence of the existence of any conspiracy in which the defendant Fisher participated. I also desire to—

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"The Court: He wrote a part of this book.

"Mr. Fuller: I want to draw your Honor's attention to a particular fact in respect to Fisher. The evidence is that the defendant Fisher had written approximately one-half of this book. He wrote it without an arrangement with the author of the other half, without knowledge of what the other person wrote. The half that the defendant Fisher wrote contains nothing in it recited by the prosecution as constituting any violation of the law with the exception of two paragraphs.

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"The Court: What would be the legal effect if he wrote one-half and then had it printed with the other half and put it out in one book? Wouldn't he be held to it?

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"Mr. Fuller: That inference cannot be drawn. A man would not be safe in sending an article to a periodical. What is the difference between the defendant Fisher sending in his half of the book for printing and the position of the defendant Fisher if he had sent in the book of Ezekiel to the Metropolitan magazine and had it approved and that the same issue of the Metropolitan magazine contained another article on the book of Ezekiel which was objectionable?

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"(Discussion and argument.)

"Mr. Fuller: Now, I desire to move for a direction of a verdict in favor of the defendant Fisher under the third count upon the ground that there is no evidence of a character sufficient to support the charge as to the defendant Fisher which comes under the third count. He is charged with an attempt to cause insubordination, disloyalty and refusal to duty.

"Decision reserved.

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"Mr. Fuller: And I make a like motion on behalf of the defendant Fisher with respect to the fourth count that he obstructed the recruiting and enlistment in the service of the United States.

"The Court: On these motions you have made up to this time with regard to Mr. Fisher, unless you have something further to say, I am inclined to deny each of these motions.

"Exception to defendant Fisher as to each ruling.

"Mr. Fuller: I make the same motion with respect to the defendant Woodworth under each count.

"The Court: Each motion denied.

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"Exception to defendant Woodworth as to each ruling.

"Mr. Fuller: I desire to make the same motion with respect to each count of the indictment on behalf of the defendant De Cecca, and I would like to say just a word in respect to that.

"(Discussion.)

"The Court: As to defendant De Cecca, each motion denied.

"Exception to defendant De Cecca as to each ruling.

"Mr. Fuller: As I understand it there has been a motion made on behalf of each of the defendants, McMillan, Fisher, Woodworth and De Cecca on each one of the counts, and each motion has been denied and an exception has been taken in each instance on behalf of each of the defendants affected by the motion.

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"Mr. Sparks: I make a motion in respect to Robert J. Martin for a direction of a verdict in his favor on the first and second counts.

"Now, the only evidence so far as Mr. Martin is concerned that I can recall is that he was the general manager down at the Bethel Home or at the Tabernacle. I cannot see that the office of general manager can of itself connect him with the conspiracy unless he does some particular act which shows that he was conscious of some illegal crime and that he did some act in furtherance of the illegal crime himself.

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"Mr. Oeland: The evidence as to Martin was some testimony given by Mr. Converse that he was not responsible for things that came in but he was responsible for everything that went out of the plant. He supervised the shipping of everything that went out. That was the testimony of this young lady.

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"Mr. Sparks: There was not a single sale shown in connection with Martin. I assume what they charge here would apply with equal force to any publication sent out by any other large publishing book concern in New York. The mere fact that a man is general manager is not a presumption that he has knowledge of all the books that go out of the establishment. The mere fact that a man was there as general manager shipping those books out from the place doesn't show that he had knowledge of the contents of a particular book—

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that that in and of itself would not connect him with the conspiracy, but you would have to go further than that, connect him up in some way. A general manager is only a servant of a corporation to do its bidding. If you can hold Mr. Robison for sending the books out, every time these young ladies wrap up these books and address the package and send them out throughout the country, then there is just as much evidence against them as against Mr. Martin, except that he has a greater scope for his work, and that the mere sending out of a book is not sufficient to connect a man with a conspiracy.

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"(Discussion.)

"The Court: I am inclined to deny this motion as to Robert J. Martin.

"Mr. Sparks: Same motion as to the third and fourth counts.

"Motions on behalf of defendant Martin denied separately and defendant excepts to each ruling of the Court.

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"Mr. Sparks: I make a motion for a direction of a verdict in favor of the defendant, Frederick H. Robison, on the ground there is nothing so far as the first and second counts are concerned to show that he entered into any conspiracy.

"I think the evidence in reference to Mr. Robison is even less cogent in connection with this conspiracy than it is as to Mr. Martin. They don't even prove that these books were sent out with his permission. The only evidence in this case against him is these letters that he signed in answer to the inquiries made by various men who were within the selective draft, but not a single scintilla of evidence as to his connection with the conspiracy. If he "

be held in at all it can only be under the third and fourth counts of the indictment, so I am limiting my motion now to one and two.

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"The Court: I am inclined to deny this motion or each of these motions of the defendant.

"Defendant excepts.

"Mr. Sparks: As to the third and fourth count of the indictment I move for a direction of verdict of acquittal on the ground that Mr. Robison was acting clearly within the provisions of the Selective Service Act and that he could not, and you cannot find a crime has been committed by an act which is expressly authorized by the Selective Service Law itself.

4208

"Each of the motions denied.

"Defendant excepts to each ruling.

"Mr. Sparks: I move for the direction of a verdict of acquittal in favor of the defendant, Joseph F. Rutherford on the first and second counts on the ground that there is no evidence connecting him with the conspiracy except the mere fact that he is an officer of the corporation itself and that you cannot presume, in connection with a corporation or an incorporated association such as this, a membership corporation, by the mere holding of an office itself—that there must be some evidence and there is no evidence to show that Mr. Rutherford had any connection aside from the fact that he was an officer.

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"Each of the motions denied.

"Defendant excepts to each ruling.

"Mr. Sparks: I make the same motion in reference to the defendant Rutherford on the third and fourth counts upon the ground that there is no evidence tending to show that he in any way interfered with the draft, or insubordination, in the words of the indictment itself.

4210

Assignment of Errors

"Each of the motions denied.

"Defendant excepts to each ruling.

"Mr. Sparks: I make the same motion as to the defendant Van Amburgh upon all the grounds specified in reference to the defendant Rutherford.

"Motion denied as to each count.

"Exception to defendant Van Amburgh on each ruling.

4211

"Mr. Sparks: All the motions made yesterday are considered made at this time, at the Government's case.

"The Court: In view of the fact that the Court allowed the Government to withdraw its rest, you may enter now that all the motions made by the defendants yesterday are to be considered and construed as if made at this time, after the Government has made its final rest, and all the rulings of the Court so that what was done yesterday will be treated as re-entered at this time. All the exceptions yesterday to be considered as being taken at this time. That takes care of the situation satisfactorily, I think. You may proceed with the defense."

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59. The Court erred during and after the testimony of the witness Wm. F. Hudgings (recalled) in the following physical remarks and proceedings, including the denial of the defendants when to withdraw a juror, and the conviction of the witness in contempt and direction to the Government attorneys to prosecute him before the Grand Jury for wilful perjury.

"The Court: And it becomes the plain duty of the Court to commit you to jail, sir, for contempt, and before doing so, I think it is the duty of the Court

to explain to you that the answer, 'I do not remember of ever having seen him write,' is just as false, and just as much a contempt of Court if you have seen him write, as it would be for you to say that you had never seen him write, without using the expression, 'I do not remember.' Now, we will adjourn here for a few moments. The Court desires you to have every opportunity to correct your answers if you so desire to do so, and the Court suggests that it would be very proper for you to talk with a lawyer about the situation. Counsel for the defense or counsel for the Government or anyone else you may desire to, but I am not going to allow you to obstruct the course of justice here, and if this nation has delegated power enough to this Court, and I am very sure it has, to deal with you in the manner proposed, I am going to do it. Now, a good many times a lay witness comes into court with the notion that if they say they do not remember that that is a complete answer. I desire to inform you that that is not a complete answer when the fact is that you do remember, or the fact is that you could not fail to remember. Now, we will take a recess for about ten minutes.

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"The Witness: Would it be proper for me to make a statement?

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"The Court: You may make a statement, but it would be more prudent, I think, after you confer with someone, because you evidently have a wrong notion of this situation. Now, it is the duty of the Court to be indulgent with you and considerate with you and give you every opportunity to do right. I would not like to have you, or anyone else think for a moment that that course will not be taken up. You see the situation is a very remarkable one, Mr. Witness, in having a desk in the same room with a man for so long, transacting so much business with him, and being present when so much business has been transacted by

him. The answer that you do not remember of ever seeing him write, would be, in the opinion of the Court, impossible, and when I say 'impossible,' that is a strong word, but the situation is so remarkable that I feel very sure that I am justified in that. Now, you are the third witness who has taken this course. Is it the fourth witness, Mr. District Attorney?

"Mr. Oeland: This is the third witness, your Honor, and the Italian witness.

"The Court: Well, the Italian witness is not very well to be classed with him, I think.

"Mr. Oeland: No; I would not stick to it.

"The Court: And the Court has sat here several days listening to this and it becomes the plain duty of the Court to commit you for contempt and deal with you otherwise, if necessary.

"Mr. Sparks: Before the recess I would like to make an objection.

"The Court: Yes. But this is dealing with the witness.

"Mr. Sparks: I understand, but I have the right at any stage of the case to make a motion such as I am going to make.

"The Court: Well, we will hear you.

"Mr. Sparks: In view of the fact that this has occurred at least three times during the trial of this case, and the Court has expressed its opinion as to the truthfulness of the witness, the witness in each case claiming that they or she were doing the best they could to answer the questions put to them, in view of the fact that they could not state and answer the question from their own knowledge, and in view of the fact that the Court has without any doubt indicated to the jury this witness was telling an

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untruth, and in each case telling them that unless they modify their testimony after an adjournment, I feel that these various occurrences have resulted in great prejudice to the defendants, and cannot help but affect the jury in their deliberations upon this case when it finally goes to them, especially in view of the fact that these three witnesses are members of the same organization, that that will have its effect unconsciously and there is nothing that the Court can say to them, in view of these various occasions, which will eradicate this impression from their minds. I also object upon the ground that these witnesses have been called by the Government itself, and the Government is in no better position to impeach their own witnesses than any plaintiff or party in any civil suit, and this impeaching of the witness by the Government is contrary to all the known rules of procedure on the question of impeachment, and we respectfully ask, in view of all the facts, to withdraw a juror.

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"The Court: To what?

"Mr. Sparks: To withdraw a juror.

"The Court: Well, the motion is denied.

"Mr. Sparks: I take an exception.

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"The Court: And in denying the motion the Court desires to say that this is not an extraordinary procedure in this, in the least. Nothing has been done to violate the rules as to the impeachment of witnesses. The Court has a right to express its opinion in the circumstances of the present situation. If the Court fails to do so, it would not do its duty. The Court has even a right to express its opinion as to the way the verdict should go in a case in this court. I never exercised that right, and if the course suggested by counsel for the defendants was

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the proper course to pursue, then in any trial the Government could be defeated or in civil suit a plaintiff, or defendant might be defeated in his case or in his defense, because a witness comes in and says "I do not remember," would be unable to proceed and complete the trial of any case. That would be giving a witness or witnesses the power to stop all proceedings in court. And as is said in this motion, gentlemen, as to prejudicing you against the defendants, there is no evidence in the case that any of these defendants are responsible for this witness's testimony. There is no evidence in

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the case to justify you in drawing the inference that any of these defendants are responsible for the attitude taken by the witness, so you should not draw any inference against the defendants. The young man on the stand is a witness called by the Government. Whatever their relations may be, as appears by the testimony, would not warrant the Court or the jury in charging this up, so to speak, to the defendants, or any of them, so you should be very careful not to let the conduct and the testimony of the witness in the respect indicated work any harm against any of the defendants. Now, before we take our recess, Judge Oeland, I wish you would ask him how long they have had their desks in the same room. I understood him to say one time more than a year and a half.

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"Mr. Oeland: That is the way I understood him.

"The Court: I understood him another time to say a year and a half.

"Mr. Sparks: Nothing in the Court's remark in reference to my motion can be deemed by me to have cured the situation which I assume to exist.

Assignment of Errors

4225

"The Court: Not in the least. The motion is denied, and what the Court said is in explanation of the ruling it made in denying the motion.

"By Mr. Oeland:

"Q. How long have you been within ten feet—your desk being within ten feet of Mr. MacMillan? A. About a year and a half.

"The Court: How long has your desk been in the same room with Mr. MacMillan?

"The Witness: About a year and a half.

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"The Court: Before this year and a half did you occupy different rooms or workshops?

"The Witness: He was not there; he had no desk.

"The Court: What kind of a desk do you work at, whether roll top or flat top?

"The Witness: Roll top.

"The Court: And what kind of a desk does Mr. MacMillan work at, whether roll top or flat top?

"The Witness: Roll top when he is there.

"The Court: I did not ask you when he was there. Are there any other desks in this room?

"The Witness: Yes, sir; about thirty.

"The Court: About thirty desks?

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"The Witness: Yes, sir.

"Q. You go to the place of work with him in the morning? A. Very seldom.

"Q. You both stay at the same place? A. The same place.

"Q. And go there at the same time in the morning? A. No, not very often.

"Q. Well, did you see him there during the day-times or did you see him at noon? A. He is in and out.

"Q. Is he in every afternoon? A. Part of the time.

"Q. And did you talk with him in the office? A. Part of the time.

"Q. Did you talk with him every day that he is there pretty nearly, don't you? A. We have some relationship; yes, sir, ever day.

"Q. You go and visit at his desk about matters, getting information as to what he wants done, he being the general manager? A. Sometimes.

"The Court: Is not that often?

4229 "The Witness: Yes; I might explain that Mr. MacMillan has very little work at his desk. His work is mostly overseeing and going back and forth between the Brooklyn Tabernacle and Bethel. I could not at the present moment say that I have seen pen and ink on his desk.

"The Court: You said a little while ago that you had.

"The Witness: I had in mind Mr. Van Amburgh, and I could not say that I have not seen pen and ink on Mr. MacMillan's desk, but I could not say that I have either.

4230 "Q. But in the year and a half there you say you were within ten feet of him, and you do not know that you ever saw pen and ink at his desk? A. His desk is within ten feet and he is there very little of that time.

"Q. Is there once a week? A. Yes; he is there practically every day, in and out. He does some work at that desk.

"The Court: He does some work at that desk?

"The Witness: He dictates there, and when he is through he will close his desk down and go away.

"Q. Don't he sign letters there? A. I suppose he does.

"Q. Have you ever seen him signing letters there in the year and a half? A. I cannot recall it. My back is to him most of the time.

"Q. When did you turn your face towards him? A. When he would get out of his seat and walk over there for something.

"Q. When you walked over there did you see him transact any business with pen and ink? A. I cannot recall it.

"Q. He did not just sit there and do nothing? A. He would be reading and looking over papers; something like that.

"Q. And you never saw him take a pencil and O K this order or that order that would come in the office? A. I do not remember that ever having occurred.

"Q. Well, do orders that come into the office go to his desk for instructions? A. No; that would not be the usual course of business.

"Q. Don't mail come to his desk that is sent from there to other desks to be answered? A. No, sir; all letters don't go to his desk. Very few, it is my recollection.

"The Court: Well, you have been away attending these meetings and conventions, have you dined with him?

"The Witness: On some occasions.

"The Court: In a dining car?

"The Witness: No; I do not think we have been in a dining car together.

"The Court: In hotels?

"The Witness: I think we have been in a hotel together, but not in the same room.

"The Court: Never dined with him in a hotel on the European plan—in a restaurant where you make out—or a railway dining car—where you make out a

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schedule of the things to be served. Did you see him write?

"The Witness: I think not.

"The Court: Does he carry a little pocket memorandum book?

"The Witness: I could not say.

"The Court: Did you ever see him write in that?

"The Witness: I do not know that he carries one.

"The Court: You cannot tell about that?

"The Witness: No, sir.

4235 "The Court: Tell the Court whether you care to take any further time on this matter, do you?

"The Witness: My time is your time.

"The Court: I suggest that you might confer with counsel.

"The Witness: No, sir, my answers will be exactly as they have been.

"The Court: Very well. You are adjudged to be in contempt of this court and you are ordered to be committed to jail forthwith. Mr. Clerk, you prepare the commitments. You are in the custody of the marshal from now on. And you may call the next witness.

"The Court: Mr. District Attorney, as part of this proceeding I want you to present the testimony of the young man as given, to the Grand Jury, with a view of finding an indictment against him for wilful perjury, and I wish that would be taken up immediately to your office and report to the District Attorney himself and proceed immediately before the Grand Jury. I understand you have a Grand Jury in session?

"Mr. Buckner: There will be one at two o'clock.

"The Court: The Grand Jury is in attendance?

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"Mr. Buckner: Oh, yea.

"Mr. Buckner: Oh, yea.

"Q. Is that a facsimile, a mimeographed copy signature of Mr. Van Amburgh? A. I think it is.

"Q. Did you know Mr. MacMillan while you were there? (No response.)

"Mr. Sparks: We make the same objection.

"The Court: Well, gentlemen of the jury, I should say the action of the Court in this regard should not be considered by you. You should draw no inference against these defendants, because there is no evidence in the case warranting it at the present time, and you will give attention, Mr. Reporter, to transcribing this testimony, in order that it may be used this afternoon. We will stop here for about ten minutes in order that we may obtain another reporter.

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"Mr. Sparks: Will your Honor have an exception noted for all of these defendants?

"The Court: Certainly. All of these defendants, so far as they are entitled to an exception to this proceeding against the witness and not against the defendant."

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60. The Court erred during the testimony of the witness Converse (recalled) in overruling the objections of counsel for the defendants, and admitting director's minute book exhibit, there being no proof properly authenticating said minute book or connecting the defendants with the same.

"Mr. Oeland: I offer in evidence certain extracts from the minute book on page 140. I offer in evidence extract from the minute book of the Board of Directors of W. B. & T.

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society, extracts beginning on page 140 and 148, just extracts from it. I wish to ask, as I read, to just call the jury's attention to Exhibit 31 as being the original of what is copied in the minute book, identified as being the original of what is in the book.

"Mr. Sparks: I object, not properly authenticated, and immaterial.

"The Court: Not properly authenticated? The evidence shows the book came from a proper custody of the person who delivered it.

"Mr. Oeland: It is the minute book of the society.

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"Mr. Sparks: Loose leaf ledger with a copy of the excerpts and signatures copied out on the machine. It don't purport to be the original at all.

"Mr. Oeland: It purports to be the original minutes of the organization. I might explain to the Court there is an approval of the proceedings by these various men who signed this mimeograph, which is copied verbatim into the book.

"The Court: What is the resolution?

"Mr. Oeland: The vital parts I want to call the Court's attention to are the organization of the meeting and the men who were present, and then the recital by Mr. Rutherford as to what had been done about "The Finished Mystery," and who aided in its preparation.

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"The Court: Does it show who was present at the meeting?

"Mr. Oeland: Yes, and then an approval which is copied into the minutes, signed by the members present, and this is copied in the minutes, and I want to show the approval of Mac-Millian, of what transpired at the meeting.

"The Court: As I recall the witness testified that it came from a safe in the office?

"Mr. Oeland: Yes, handed to him by some one, Van Amburgh.

"The Court: Mr. Van Amburgh said it was the record of the association?

"Mr. Oeland: It purports to be.

"The Court: That tends to show that the record came from the proper custody, and the evidence tends to show it was an official record of the organization, and the testimony tends to show the signatures of at least two of the three—

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"Mr. Oeland: Those are the only two I am concerned about.

"The Court: I am inclined to admit this under the objections of the defendants and subject to their exceptions.

Mr. Oeland: I might make a further statement: Assuming it was not bound to be the minute book of the association, I think it is perfectly admissible to assume it was not. Here is a declaration made by Rutherford of something and written approval of it by these defendants, because they refer to the statements he made and approved them.

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"The Court: If it turns out to be an act of one of the defendants it becomes evidence against all, so we will admit it."

61. The Court erred during the testimony of the defendant Fisher in sustaining the objection and overruling the questions of defendants' counsel in direct-examination "When did you first hear of the enactment of the Espionage Act, Mr. Fisher?" Counsel having expected to show by the answer expected to said question that said defendant did not know of

said Act until March, 1918 and in ruling on said question the Court erred in making the following remarks, erroneously stating the law:

"Q. When did you first hear of the enactment of the Espionage Act, Mr. Fisher?

"Mr. Oeland: I object; wholly irrelevant.

"The Court: I hardly think we can go into that. The law is he is bound to hear of it and know of it. In other words, he is bound to know this law just as soon as it becomes a law; that is so well settled that you probably don't make any claim to the contrary in that regard.

"Mr. Fuller: Yes. My contention is so far as the charge of conspiracy is concerned, the defendant entered into a joint agreement, of concerted effort, at a time when that act is not forbidden by the statute. The passage of a statute forbidding the act upon which concert has been agreed, unless the defendants are shown to have knowledge of the statute—

"The Court: You maintain the conspirators can go along with the program after the passage of the statute and be exempt from liability?

"Mr. Fuller: They cannot be adjudged to have committed the offense of conspiracy. The point we make is the difference between a conviction of conspiracy to do an act that has been wrongful—

"The Court: Let us send for that case.

"Mr. Oeland: In examining that authority, will your Honor bear in mind, in considering this question under this particular statute conspiracy itself is made a substantive offense.

"The Court: There is another statute which makes it substantive.

"Mr. Oeland: Under Section 4 of this act it- 4249
self.

"The Court: Section 4 is silent as to overt acts?

"Mr. Oeland: No, it says if a company by some act in pursuance of the object sought.

"The Court: That would make it the same from a legal point, the same as the old statute. Read Section 4.

"(Mr. Sparks reads Section 4.)

"The Court: The book came in, Mr. Fuller.

"Mr. Sparks: The syllabus, I presume your Honor will take that.

"(Mr. Sparks reads beginning with the 4250
words 'the mere fact,' and ending with the words, 'criminal intent.')

"The Court: That is an elementary rule. That has always been in force. I agree with you on that.

"Mr. Sparks: If they did not know of the existence of the Espionage Act, then there could be no criminal intent, because the law may presume that you know the law, but the law does not presume a criminal intent, if a person does not know of the law, itself.

"The Court: That is not the rule, that is, I never heard of any such doctrine as that before. 4251
I cannot subscribe to that.

"Mr. Sparks: How can I have criminal intent, if I don't know of the existence of a law? I may be guilty of violating a statute where intent is not made a necessary element, but if intent is a necessary element of the crime, like grand larceny, we must prove intent, you must prove criminal intent, you may prove the existence of the law, but where intent is necessary, you have to prove the person intended to commit a crime, and if he can establish to the

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satisfaction of the Court and the jury that he did not know that it was a crime—

"The Court: That he was innocent?"

"Mr. Sparks: That he could have no criminal intent.

"The Court: No; that is not the law, never was the law, and I trust it never shall be the law. This question is excluded, and each defendant can have an exception. It has always been the law of this nation, always been the common law of England, from which we take our laws, that a person charged with a crime is conclusively presumed to know the law. I have never read any different doctrine in the book, never heard of any different doctrine urged in court before.

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"Mr. Sparks: I might take a book from this table with the intent to take it away—if I make a claim of ownership there I must be shown to know that my claim of ownership was merely asserted for the purpose of getting title to that book, and if you can't prove that my intent was to defraud or to deprive the true owner of the title of that book, you can't convict me. That is where the question of intent comes in. It is unlawful for me to take any book.

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"The Court: You don't put in any issue of fact here—

"Mr. Sparks: I think we do put in a question of fact, if the Court please. If this man did not know of the existence of the Espionage Act at a certain time when a certain act was taking place, innocent in itself—

"The Court: It is not innocent in itself after the law was passed.

"Mr. Sparks: That is a question of fact. Your Honor, according to the theory that you have ruled here, is going to leave to the jury

what the man's intent was in doing a certain thing. Now, if he didn't know and if they are convinced that he did not know of the existence of the Espionage Act, certainly that is going to have a very material bearing upon that question of intent, not only the conspiracy, but on the third and fourth counts because even in the third and fourth counts they have got to find intent.

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"Mr. Fuller: Will your Honor let me read two cases upon that case?"

"The Court: Read all you desire to, I don't limit you to two cases.

"Mr. Fuller: The Court of Appeals, referring to a former judgment—the Court of Appeals reversed the judgment of conviction: 'But a mere agreement between two or more persons to do an act innocent in itself, a criminal conspiracy—it is not enough that it appears that the act which was the object of the agreement was prohibited; and the federation must be corrupt. The agreement must have been entered into with a full purpose, as distinguished from a purpose simply to do an act prohibited in ignorance of the prohibition.'

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"Now, in that case the jury came in and asked for further instructions with respect to criminal intent and the Court replied that criminal intent is the doing of an unlawful act intending to do it—

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"The Court: Yes; I used that case you refer to in defining criminal intent to a jury in that case tried in the Southern District, the United States against the Hamburg-American Line and various officers of the Hamburg-American Line. That is not a new doctrine.

"Mr. Fuller: The Court replied that a criminal intent is the doing of an unlawful act intending to do it. Now, this case proceeds, af-

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ter further colloquy between the Court, the jury and counsel, the Court referring to what constitutes an agreement, said: 'If he (the defendant) has no legal sense or is ignorant of the law, he is still guilty. If he does the unlawful act and intends to do such an act and is a sane man'—and to this exception was taken. This question made the question of guilt to depend solely upon the intentional doing of an unlawful act. So the substantial requirement was changed by the doctrine in the charge that although there was no intention on the part of the defendants to do anything wrong, if the acts done were within the Conspiracy Act and the intention was to do those acts, the defendants were guilty. For reasons heretofore stated this instruction was erroneous—

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"The Court: You have not read anything that helps the witness on the stand, that he can say he did not know the law.

"Mr. Fuller: All I have read is the fact that it was a very important question in that case as to whether at the time of the conspiracy he did know whether the act was or was not prohibited by statute, and we contend that it is needful that he disclose that fact in the trial of the case in order that that can be considered by the jury.

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"The Court: That question was not up in that case.

"Mr. Fuller: In this case the verdict was reversed by reason of an error in the charge to the jury.

"The Court: Do they hold there that a witness may take the stand and say he did not know the law for an excuse?

"Mr. Fuller: No, but it says very plainly that if a witness doesn't know the law, that that

excuses him from the vice of criminal intent in the formation of the conspiracy. 4261

"The Court: The general rule is that you must have a criminal intent. Now, if these defendants did things that caused insubordination, disloyalty or refusal of duty, if they did what they intended to do knowingly, feloniously, and I believe the word wilfully is in the statute, wilfully, that is purposely, intentionally, as contradistinguished from inadvertently or accidentally, the criminal intent is made out.

"The Court: I will exclude this question, if he knew when the Act of July 15 was passed. 4262

"Exceptions to each defendant.

"Mr. Sparks: Or knew of the existence of that act.

"The Court: Yes. And I rule that the defendant on the stand is conclusively presumed to know of this act from the time it was approved by the President of the United States, which was on the 15th day of June, 1917. He cannot be here and say he did not know of it. Now, that is a general rule of law and it has been for some time, and this case is no exception to it. While, as a matter of fact, probably no one knows all the law, nevertheless, when charged with a crime we are all presumed to know all the law. You cannot be here and say you do not know it. It would be impossible with the burden on the Government to show that a man knew about the law— 4263

"Mr. Sparks: I think your Honor has stated a general proposition, but I don't believe that you added an additional and necessary element to your statement, which is that before the Government can have a conviction for a violation of any law in which intent is a necessary

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element, whether in a conspiracy case or any other case where intent is made a part of the crime, they must prove criminal intent and that you cannot prove a criminal intent provided the person is ignorant of the law itself. I think it is a necessary corollary that you must know of a fact before you can have a criminal intent to do it.

"The Court: No; the authorities are all the other way.

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"Mr. Sparks: How could I have a criminal intent if I did not know that a thing was wrong?

"The Court: I will define to the jury what intent is necessary for them to find here in order to find a verdict of guilty. They must find that the defendants had a felonious intent and you may pass up any requests you like to make upon that subject-matter.

"Mr. Fuller: I think probably the other exceptions cover it, but would your Honor give us an exception to that?

"The Court: Yes, an exception to each defendant as to all the Court has said."

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62. The Court erred during the testimony of the defendant Fisher in the following remarks erroneously stating the law and belittling counsel for defendants:

"Q. Well, did this language meet with your approval that Satan deals with a certain delusion which is best described by the word patriotism, but which is in reality murder, the spirit of the very devil; did that reality murder, the spirit of the very devil; did that meet with the full approval? A. No, sir.

"Q. You knew Mr. Woodworth had written that?
A. Yes, sir.

"Q. You knew it was to be published and circulated in a book that you had helped to produce? A. Yes, sir.

"Q. And that you did not agree with it? A. I did not agree with that because my conception of patriotism does not agree with that, but there is a delusion which has been in Germany and some of those other countries.

"Q. My question was: Did you believe it or did you not?

"Mr. Sparks: He has a right to say that certain parts of the sentence he might approve of, and other parts he might not. You cannot limit him to one thing.

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"The Court: How is it material whether he approves of this or not? Under the statute a person who aids, assists or abets another—wouldn't this be aiding, assisting and abetting the other in putting out his manuscript. I do not see how this is material under the law. Under the law isn't this man more responsible than—responsible for all that is written in this book, whether written by him or his associate editor?

"Mr. Oeland: I agree with you, and he is still more liable if it is there without his approval. I need not ask these questions, but I am trying to show that something was being published that he did not approve of, and it makes him still more criminal in the eyes of the law as I read it, because he did nothing to prevent it.

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"The Court: Well, he aided and assisted and encouraged.

"Mr. Sparks: Does your Honor make that as a statement of fact?

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"The Court: Well, I state that as the tendency of the evidence thus far.

"Mr. Sparks: We take an exception to the Court so stating it.

"The Court: What is the objection to that?

"Mr. Sparks: I do not think the Court has a right before the examination of the witness is finished to make any statement in reference to what his evidence shows.

"The Court, well according to your conception of the rights of the Court, the Court will be pretty much powerless.

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"Mr. Sparks: All I want to do is to take an exception to what I consider the Court hasn't any right to do, so as to preserve my rights on the record.

"The Court: It seems rather singular to the Court, in view of the well known rule that this Court has a well known right to comment on the evidence, to express an opinion on the evidence, and for you to advise the jury which way they should decide the facts as they should see fit. The counsel continually takes exceptions and makes objections to things it must know—they must know—the Court has a perfect legal right to do. It seems to me to be challenging the well known, well set, well established rights of the Court, continually.

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"Mr. Sparks: Is your Honor finished, so that I may make my statement?

"The Court: You may make an objection and take an exception.

"Mr. Sparks: I cannot tell when your Honor finishes, and, therefore, I do not want to interrupt you unseemingly and appear to be discourteous. This is the reason I asked. We entirely disagree with your Honor's statement that we know a well known rule when as a matter of fact, we think that the Court has no

power to tell any jury how they should decide the case, and if this is the law, then, the jury can be entirely dispensed with and the Court register its verdict of guilty or not guilty, according as it goes. If the jury is bound to take your Honor's opinion as to how they should find, why, the jury is a useless appendage of the court.

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"The Court: That is not what the Court said. The Court said it had the right to express its opinion even—

"Mr. Sparks: And tell them how they should find.

"The Court: Wait just a moment. I have advised you of this right and this law several times. You are not sufficiently advised as to the rules of this court in this regard. It would be a fine thing for you to acquaint yourself with the authorities, rather than continually to oppose the Court and continue to do that, and if you need time to do that, the Court will give it to you.

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"Mr. Sparks: We do not need any time.

"The Court: Ever since the Constitution and the establishment of the courts of the United States, it has been the well known, well recognized doctrine, without regard to practice of the state courts, that this Court has a right to advise the jury how they should decide the case, but I told you I did not exercise that right, but in the admission of evidence here, because the Court states what the tendency of what the evidence is upon being made with objection and exception, then counsel continually take exception to that action of the Court. It seems to be an extraordinary thing to do.

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"Mr. Sparks: I will take exception to the remarks of the Court as addressed to counsel,

and also except to your Honor's statement of the law as to what powers are in respect to directing a jury as to how the Court thinks it ought to find.

"The Court: Now, the Court has not said anything about directing the jury. It seems that you have not yet comprehended the discretion. The Court merely has said it has the right to advise the jury.

"Mr. Sparks: And I substitute the word 'advise' for the other word that I used.

"The Court: You may proceed.

"Mr. Sparks: Exception.

63. The Court erred during the testimony of the defendant Fisher in the following prejudicial remark or questions to the witness:

64. The Court erred during the testimony of the defendant, Fisher, in the following remarks, charging counsel for defendants with trying to lead the Court into error, which charge was without warrant.

65. The Court erred during the testimony of the defendant, Fisher, in the following remarks, charging one of counsel for the defense with swearing and cursing Judge Ashland and by indirection of the Court, which remarks were entirely without warrant and prejudicial to the defendants by discrediting one of their counsel with the jury.

"By Mr. Sparks:

"Q. You say that there is some special purpose of the Book of Revelations, as you understand it, and you were not permitted to finish what that purpose is. Will you now state—

"The Court (interposed): You say you had no right to publish the part he was doing, but you had a right to refuse to join hands with him. You acted

with him in publishing both parts; you certainly had that right, you understood it.

"Mr. Sparks: I take exception to the Court's remarks. I take exception to the remarks of the Court.

"The Court: Yes; the exception is granted. The Court is not to sit here like a dummy, even if you do take exceptions.

"Mr. Sparks: I am not asking the Court to sit here like a dummy.

"The Court: That would be the effect.

"Mr. Sparks: May I finish my statement without interruption? 4280

"The Court: No; when the Court is finished.

"Mr. Sparks: No; I was speaking when the Court interrupted me.

"The Court: No; I beg your pardon.

"Mr. Sparks: May I make the statement I was making when the Court interrupted me?

"The Court: Yes; you may.

"Mr. Sparks: I am not asking the Court to sit here like a dummy. I am simply trying to take my legal objections for the protection of my clients, and every time I take an exception the Court makes some remark upon my conduct, to which I take exception. 4281

"The Court: No, the Court does not. That is a misstatement, a very grave misstatement. Altogether unwarranted. The Court has been exceedingly patient and indulgent with you, especially in the legal propositions that you have announced here, many of which are unheard of, unknown to the Court. The Court is going to be exceedingly patient and indulgent with you throughout the trial, whatever your conduct may be, however aggregating your conduct may be toward the Court, the Court

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is going to let you go to the very outside limit in that regard. But, at the same time, in explaining that indulgence and taking this position, I am now—the Court is not going to allow you to prevent the Court from asking proper questions, asking legal questions, to exercise some of its rights.

"Mr. Sparks: Is your Honor finished?

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"The Court: No. And, in taking this position, the Court has made up its mind that the attitude of Mr. Sparks is one very extraordinary. It seems to be for the purpose of leading the Court into error, if possible, of course, it is one that is seldom practiced in trial courts of general jurisdiction. To make objections and take exceptions to questions that are thoroughly proper, and to do that continually I must say that I hardly know what to think of. Now, the Court has extended you every latitude in the defense, and it is going to do so. If there is any doubt about it, I am going to rule in the defence's favor, and I shall continue to do that. Now, you may proceed.

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"Mr. Sparks: I take an exception to those remarks, and especially that part of your Honor's remarks where you say that Mr. Sparks seems to have the habit of leading the Court, if possible, into error.

"The Court: Well, that is the only construction I can put upon your talk, Mr. Sparks.

"Mr. Sparks: I take an exception.

"The Court: I have had to ask you several times what the objections were. Now, objections made to these things that are so well established—why, if we were in a Justice of the Peace Court, such as we have at home in Vermont, this would be a very ordinary way of

practicing, but to meet with it here is surprising, and then, your attitude towards the Court seems to be one of hostility. Now, there is no occasion for that whatever. And that is what I have in mind when I say I am going with—I am going to bear with you and be considerate and indulgent with you, notwithstanding your attitude, and I am going to let you carry that to the very outside limit. Of course, the Court has power to stop it at any time. The Court has much power. Now, I am going to exercise that power unless you drive me to it. It would be easy to exercise that power at any time. The difficulty I am having is in refusing to exercise it. I am trying to do the large thing with you.

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“Mr. Sparks: Now, for the purpose of protecting my position and clients, I now and here ask the Court to exercise the power that you have just indicated that you have, so that I may take exception to it, and from now until the end of the trial, I will not transgress what your Honor considers my conduct, and by making that ruling and taking exception to it, I can preserve my clients' rights from now until the end of the trial, without having these discussions with the Court as to whether my conduct is that of practice in the Police Courts. I have practiced for twenty years in this court, and it is the first time that any Court of original jurisdiction has had any occasion to address any such remarks as your Honor has to me. I have probably tried, in this jurisdiction and in this court and in the Supreme Court of the State of New York, as many cases as any ordinary lawyer that practices at the bar, and for your Honor to come to this court and make remarks of that kind, when I am trying to

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protect my clients' interests and their rights, I take the grave exception and call upon and ask your Honor and willingly invite that you exercise the power that you speak of, and I am perfectly content from that time on to have no colloquy with your Honor in reference to the trial of this case or its ruling or what it considers the law, where it differs from mine. Now, if your Honor will kindly do that, I will be very well satisfied.

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"The Court: In view of what you say in regard to your experience and your practice I must not omit to remind you of your coming into the library at the Court's invitation and commencing to swear and curse Judge Oeland and by indirection to swear and curse at the Court, until it became necessary for the Court to order you to leave the room. While the Court has had considerable experience with human nature and with men generally, I still say that your attitude seems to be one of hostility and arrogance toward the Court; now, the Court has been very considerate and indulgent with you throughout this trial. The Court will continue to the very outside limit of all patience, because that is the duty of the Court, notwithstanding what your attitude may be. Now, you have noted all exceptions that Mr. Sparks has taken. Now, gentlemen of the jury, you must bear in mind that we are not trying Mr. Sparks. He is not on trial here. That is just what the Court is bearing upon. He is not on trial here. I should feel very bad indeed if I allowed his attitude to influence me in the least against his clients, because that would be manifestly wrong. We must all try to do the large thing, so you won't use anything the Court has said, for or against the defendants.

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Mr. Sparks: In view of your Honor's taking advantage to put upon the record in open court an incident which occurred in your chambers, where I had been invited and not asked, that my remarks on that occasion consisted of these words and in which statement I was trying to protect the Court from a concealment by counsel for the Government. I wish to make this statement. Mrs. Hudgings was upon the stand. She was being asked about a letter, and the Court had been led into a position and belief that she had written that letter. Your Honor was suggesting to Mrs. Hudgings that she better be very careful about the denial of her authorship or writing of that letter, and was about to take an adjournment for the purpose of allowing her to think it over. All of which occurrences took a considerable length of time. Counsel for the Government, consisting of three representatives, sat still and left the Court under the impression that Mrs. Hudgings had written that letter and that she was undertaking to deny it. When I got into your chambers, counsel stated to the Court that the Court was mistaken in assuming that Mrs. Hudgings had written that letter, and when I asserted that the Government had deliberately sat in open court before the jury, and let the Court examine Mrs. Hudgings in the way it did on the subject, all I said was that I considered the attorneys for the Government and their conduct a damnable outrage and that was all that was said. I did not curse at the Court and I did not curse at Mr. Oeland, or at anyone else, and if—for your Honor to make a statement to the effect that I did when all I said was that the conduct of

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the Government's attorneys in taking that attitude and holding this little woman up to contempt and to scorn in front of all these spectators was a damnable outrage.

"The Court: Well, Judge Oeland, I do not hear anything further. You may proceed. The Court won't take any further issue with this attorney as to what occurred.

"Mr. Oeland: I am through with the witness, if your Honor please."

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66. The Court erred during the testimony of defendant Robison in excluding the witness's narration of his effort to ascertain what the objection of the Government to the book, "The Finished Mystery," was, counsel expecting to show by such testimony so excluded that the witness had had no evil intent in any acts done or joined in by him, which intent was material on the counts for conspiracy.

"Q. Shortly after that wasn't there a meeting of the Board of Directors of the Watch Tower Bible & Tract Society in reference to taking some action looking to find out what the objection of the Government was to the book? A. The following day, Tuesday, March 5th, such a meeting was held.

4296

"Q. And as a result of the action of the Board of Directors did you go to Washington for the purpose of ascertaining, if possible, what the objection to the book was? A. I did. I went to Washington on the night of March 5th; arrived there in the morning of the 6th.

"Q. Whom did you see there? A. I saw the Censor Committee of the Intelligence Section of the Army. This committee is located and was located at that time in the War College, South Washington, if I have the direction right.

"Q. Did you see some committee? A. I saw the Censor Committee. Col. Cox introduced me to four

gentlemen, three in uniforms, two lieutenants and one captain, and one in civilian clothing. The one in civilian clothing, I cannot recall his name now, seemed to be the chairman of the committee, as far as I could tell. I told them—

"The Court: How is this evidence in this case?"

"Mr. Sparks: It goes squarely, if the Court please, to the first and second count of the indictment on the question of intent. If this book was published without any knowledge of the claim that it violated any act, and as soon as it was called to their attention they tried to ascertain wherein it was objectionable and wrong, and wherein it was impeding the United States in the raising of its military forces, and they took action to stop it. I think it is the best evidence that we could produce before any Court or jury that they did not intend to violate that law.

4298

"The Court: It is not very proper. That comes up when the question of punishment should be made. How wilful and determined and vicious they were to violate the law, but this is after it was all over.

4299

"Mr. Sparks: You cannot tell what a man's intent is, because the thing you are trying to determine happens after he forms his intent. Now, we are trying to get back and show that the things the Government claimed were done with a deliberate intent were done with a deliberate intent, and if a person is ignorant of a given state of facts, you cannot charge him with intentionally doing that act.

"The Court: Conversation he had with the committee—does the Government want this to go in?"

4300

"Mr. Oeland: No, sir; we do not think it can be material on any point.

"The Court: The question of punishment and sentence—

"Mr. Oeland: I mean in the trial. I cannot conceive of any theory on which it could be done. It is restoration in a criminal case where a man is charged with taking something.

"The Court: I could say I would offer to pay as soon as they got me.

"Mr. Oeland: But that is all looking toward the punishment if it reaches that stage, but it is not a defense either on intent or anything else.

4301

"Mr. Sparks: It goes to the question of intent, and we are offering it for that purpose to disprove intent on counts 1 and 2.

"Mr. Oeland: I object as wholly incompetent, immaterial and irrelevant and not within the issues.

"The Court: Supposing the committee told him it was all right, to go right on and publish it?

"Mr. Sparks: Then you certainly could not find any intent.

4302

"The Court: The committee would not have power to set aside the law of the land and render the Court helpless.

"Mr. Sparks: But some person has to be the standard. If the Government did not take the stand that this was objectionable, there could be no prosecution. The book could go right on circulating. Somebody has to say this writing violates the statute.

"The Court: Well, that is the business of this Court.

"Mr. Sparks: Only acting through the Government. This prosecution comes from the

Government. It is in the name of the Government of the United States of America. The Government of the United States of America is the plaintiff in this action. They are the ones who are complaining. Now, we go to the United States Government at Washington, its duly constituted department, the one who first raises the question, and we say to that department wherein in this book violating the law and hindering the United States Government in the raising of its forces, and they say we consider pages so and so objectionable. All right. It is the first time that we have known that the Government claims that they are objectionable. We will cut them out. Now, if the Government does not—if we ask the Government if there is anything objectionable in this book, and the Government says no, it is not objectionable, and then we go on publishing the book, and then some other person comes along and says I think it is objectionable, why, we are acting at our peril. Every person is. We can only seek the best advice that we can, and when we go to the Government itself for advice on a particular topic, surely the Government then cannot be held to say that we intentionally published the book.

4304

4305

"The Court: That is not the law, and I will exclude this evidence.

"Mr. Sparks: I take an exception."

67. The Court erred during the testimony of the defendant Robison in excluding the witness's statement of the report made by him by telegram to the Brooklyn headquarters of the corporations of which some of the defendants were officers or directors with reference to what he learned in Washington as to the objections of the Government to the book "The

4306

Assignment of Errors

Finished Mystery," counsel expecting to show by such testimony so excluded that the witness had no evil intent in any acts done or joined by him which intent was material to the counts for conspiracy.

"Q. As a result of what you learned in Washington, did you make a report to the Brooklyn headquarters?
A. I sent a telegram that night, written as follows—

"The Court: When was this indictment found?

"Mr. Oeland: The 6th of May, 1918.

4307

"The Court: When were these proceedings originally started, Mr. Buckner?

"Mr. Buckner: The search warrant was originally issued on the 27th day of February. That is, the first issue was made on the 27th day of February.

"Mr. Oeland: We object to any telegram that may have been sent out, or anything else after that date as irrelevant.

"The Court: The telegram would be hearsay, would it not?

"Mr. Sparks: No; I cannot say that the rule of hearsay applies to a case of this kind.

4308

"The Court: Well, perhaps the rules of hearsay should be repealed in a case of this kind, but I do not think so. It is denied.

"Mr. Sparks: Exception."

68. The Court erred during the testimony of the witness Robison in excluding his answer to the question on direct-examination, "What do you mean by your understanding of the law with respect to the power you understood the military authorities had under Section 4, counsel expecting to show by the answer expected to said question that the witness had no evil intent in any act done or joined in by him which intent was material on the counts for conspiracy.

And the Court further erred in ruling on said question in the following erroneous statements of the law as relating to a charge of conspiracy:

"By the Court:

"Q. You knew a good many were being called? A. I knew they were being called.

"Q. You set yourself up to decide that question yourself without regard to the military authorities and in the face of their decision? A. Some of them; yes, sir.

"Q. That is the responsibility you took? A. Yes, 4310
sir.

"Q. You advised that man just what you intended to advise him—no mistake about the advice you gave him? A. No. Some of the board advised it one way and some another, so far as the sending to camp was concerned.

"Q. So you made the military authorities' actions of no effect, subject to your revision if the folks that you advised followed your advice? A. Building it on my understanding of the law.

"By Mr. Fuller:

"Q. What do you mean by your understanding of the law with respect to the power you understood the military authorities had under Section 4? 4311

"The Court: How is his understanding of the law material?

"Mr. Fuller: On the question of intent.

"The Court: No; he is bound by the law, and if he undertakes to construe it and if he construes it inaccurately, he is bound just the same.

"Mr. Fuller: My contention is that he construed it accurately.

"The Court: I will charge the jury he construed it erroneously.

4312

"Mr. Fuller: When we are dealing with his intent I want to get it as clearly as I can, the question of his intent.

4313

"The Court: The theory of your rule as to intention is altogether misleading. We have heard quite a good deal as to the intent required, going so far as to enunciate that if he were ignorant of the law that would excuse him. I am a little fearful that we are likely yet, some of us, to become misled if we linger too long on this question of intention. I have not the slightest doubt but what if a person does what he intends to do and then deliberately says there is a mistake in fact about it, he is acting on his peril if he didn't know the law. That wouldn't help him any, or excuse it. It is a subject on which there is very much disagreement in the books, as to what constitutes criminal intent. The case you referred to the other day I remember using and my recollection is that it was overruled by your Court of Appeals.

4314

"Mr. Fuller: The portion of the case I was reading to your Honor was a quotation from a case in the Court of Appeals which was overruled in the case that I was citing, and my construction of the case was that it was authority for the proposition that I was standing for then—that the case which was cited would be, perhaps, authority for the proposition I was standing for—

"The Court: Hasn't the case you refer to been overruled?

"Mr. Fuller: People against Flack was the case. Not to my knowledge.

"Mr. Sparks: In fact we have run that case down in our digest which brings the citation down to date, and I understand that it has not

been overruled by any decision which your Honor would interpret, by reference to it, that it is not good law any more. 4315

"The Court: The later cases are in conflict with the doctrine there now.

"Mr. Sparks: In the Court of Appeals?

"The Court: Yes.

"Mr. Sparks: I don't see how we could have missed any such case, because the digest we are referring to deals solely with Court of Appeals cases.

"The Court: You have no knowledge of any opinion overruling that case?

"Mr. Sparks: None whatever. 4316

"The Court: That would not apply here in any event, because these acts would not be said to be harmless in themselves. That case is a very extraordinary case and if it has not been overruled I am misinformed. My opinion is it had been but it would not be the rule in this case in any event. I shall hold here that ignorance of the law does not excuse any of these defendants. You may take exception to that, of course, and save your rights. If this man construed the law and construed it erroneously, that would not excuse him. He was not a lawyer. The association, it seems to me, was going out of their way to advise all these folks—sort of running a campaign in behalf of the so-called conscientious objectors. I will allow the witness to testify to what his intention was, but anything that bears upon the fact that he did not know the law shall be obliged to exclude. You may proceed. You may take an exception if you desire as to the ruling of the Court as to the ignorance of the law. 4317

"Mr. Fuller: Your Honor will allow an exception at this time to that?

4318

Assignment of Errors

"The Court: Yea.

"Mr. Fuller: Exception to all the defendants."

69. The Court erred during the testimony of the defendant Robison in asking the witness the following unfair questions indicating to the jury a hostility on the part of the Court to the defendants:

"By Mr. Fuller:

4319

"Q. In answer to this question by the Court the other day, you gave this answer: 'Q. Do you understand there is anything more you could have told them—you told them not to do anything? Was there anything more you could do to hinder the War Department? A. Not that I know of.' Did you understand when you were writing the letter in respect to which this question was asked that what you were doing in writing that letter, the course of conduct advised or the suggestion made in your letter was, in fact, hindering the War Department in any degree? A. No, I thought not. I didn't understand the full import of his Honor's question.

"By the Court:

4320

"Q. What was there about that you did not understand? You told this man not to do anything. You knew that he was a soldier boy. You knew that the purpose of a soldier boy was to shoot the enemy and you told him not to do anything. What was there about that question that you did not understand? A. I did not understand that he was a soldier, your Honor.

"By Mr. Fuller:

"Q. Did you undersand that he was selected, designated? A. Classified.

"By the Court:

"Q. As a soldier boy he was liable to be called upon and you told him not to do anything? **A.** Classified but I understand that he was not under military orders until such time as the President would designate non-combatant service. The word "more" is what I don't feel like concurring in just now, because I didn't feel that I had done anything and I didn't feel that I could have done more—

"Q. You told this young man who was then a part of the military forces of the United States, not to do anything whatever. What more could you suggest to him to do or render him any more useless in the War Department of the army? **A.** Well—

4322

"Q. If all soldiers refused to do anything, the army would be absolutely helpless? **A.** Yes.

"Q. That would be so as a whole army. Now, you told him when he was going into the army not to do anything. If you can think of anything more you could have advised him, which, if he had followed your advice would have made him any more useless, I wish you would tell this jury what it is? **A.** I didn't look upon him as a soldier—"

70. The Court erred during the testimony of the defendant Robison in directing counsel for Government to ask the witness on cross-examination the following unfair question indicating to the jury a hostility on the part of the Court to the defendants.

4323

"Q. Then why didn't you give advice that they might accept that rule of non-combatant service instead of not doing anything? **A.** They might accept that kind of service.

"Q. Why didn't you tell them that? **A.** I told them to wait until the President defined it.

4324

Assignment of Errors

"By the Court:

"Q. Why didn't you wait until the President defined it, if it was all right? A. I wanted to give any provision the President would make for them.

"The Court: Ask him if the real reason was not that he wanted to hinder and interfere with the getting of the army.

"By Mr. Buchner:

4325

"Q. Wasn't your real reason the fact that you intended to hinder the enforcement of the Selective Service Act and the building up of our army? A. No, sir, no object in doing that.

"Q. Were you not willing to do as much as you could to hinder them? A. No, sir."

71. The Court erred during the testimony of the defendant Robison in directing counsel for the Government to ask the witness the following questions upon cross-examination indicating a desire on the part of the Court to impeach the witness.

"By the Court:

"Q. Did you write it in a letter? A. Certainly.

4326

"By Mr. Buchner:

"Q. Do you remember the name and date specifically when you gave that advice to anybody in a letter? A. No, I don't remember the date.

"Q. Or the name of the party? A. No, I do not.

"The Court: Mr. District Attorney, if you desire to do so you may ask him if he has done anything to aid the nation in the war. If you care to, I will allow you to ask that.

"Mr. Sparks: I object to that.

"The Court: Objection overruled.

"By Mr. Buchner:

"Q. Have you yourself done anything to aid this country in the prosecution of this war?

"Mr. Sparks: I object to that as an improper question.

"The Court: Admitted.

"Defendant excepts."

72. The Court erred during the testimony of the witness Robison in directing counsel for the Government to ask the witness upon cross-examination the following questions, indicating a desire on the part of the Court to impeach the witness.

4328

"By the Court:

"Q. Who were you to teach or enlighten upon our institutions, soldier boys? A. To a certain extent, yes, sir.

"Q. Soldier boys? A. Yes, sir, there were some soldiers in there. It was intended primarily for—

"Q. Everybody, whether soldier boys or not? A. For those who expected to become American citizens.

"The Court: Ask him if he has done anything to aid the Red Cross or the Y. M. C. A. or bought any Liberty Bonds, if you care to.

4329

"By Mr. Buchner:

"Q. Have you done anything yourself to help this country in the war? A. I am a member of the Red Cross and have been for several years.

"The Court: That is not necessarily a war organization—

"By Mr. Buchner:

"Q. You joined it when? A. Three or four years ago.

4330

Assignment of Errors

"Q. Just renewed your annual subscription as a member? A. Yes, sir.

"Q. When did you last renew it? A. About five or six weeks ago.

"Q. That was after you were indicted? A. I don't remember when it ran out.

"Q. Five or six weeks ago was after this indictment? A. Yes, sir.

"Q. It was after this indictment that you renewed it?

4331

"Mr. Sparks: I object to that as an unfair question.

"The Court: No. They are not unfair questions. They are eminently fair. He has said he is not opposed to war.

"Mr. Sparks: Exception."

73. The Court erred, during the testimony of the defendant Robert J. Martin, in the following remarks unwarranted by the circumstances shown by the record, derogatory and abusive of counsel for defendants, and prejudicial to the defendants:

4332

"The Witness: In 1917 our endeavor was to get followers, as many as possible, and that they should have a full understanding of the Bible.

"The Court: But if they did, and understood it right, they would not engage in war?

"The Witness: In the combatant branch of war.

"The Court: That is what you mean there?

"The Witness: Yes, sir.

"Mr. Sparks: I submit they are not responsible for results that follow preaching.

"The Court: No, the question was what he wanted, his notion.

"Mr. Sparks: His position is that he wants everyone to understand the Bible and to be

saved, from their standpoint; now, if in preaching his religion with a perfectly worthy motive it might infringe upon any act passed by the Government that would not make him guilty of any violation, or a crime, and consequently these deductions that are being drawn from his desire to preach his religion, I think are incompetent and not material to the issues.

"The Court: He violates—you say in preaching his religion he violates an Act of Congress, he is not guilty?

"Mr. Sparks: I think he has a right to honestly preach his religion.

"The Court: In violation of the law of the land? 4334

"Mr. Sparks: I cannot see, where religion is guaranteed to every man under the Constitution, how you can pass any law which will show that belief of it, how then, prevent him from teaching and believing in his religion. I have never seen any case that will go to the extent that Congress can pass a law that will infringe upon religious freedom.

"The Court: If there is any case that you can find in the courts of the United States that pronounces the doctrine that you have pronounced, I am not aware of that, and I would be very glad to see such a case, anyhow, because if that was the law, by entertaining a religious belief, a person could evade any act that Congress might pass. If I understand, Mr. Sparks, that has been the law of this land. A man may understand such religious beliefs as he desires, but he must not go out and preach those religious beliefs, if by doing that, he is violating an Act of Congress. According to your program that you announce, why, by entertaining a religious belief, a person might prevent the nation from raising any army what- 4335

4336

ever, if you permit him to go out and preach religious beliefs that it is wrong to engage in warfare. If that would be their religious belief it would be a defense to that, of course. Of course, they have the same person who could and preach and that he could follow his religious belief further and prevent anyone from joining the army.

4337

"Mr. Sparks: The law contends that if a man does an act and does that act, accomplishes a certain purpose, you cannot hide back of your real belief. If this man was going out with the intent to impede the raising of an army, and to accomplish that purpose he was accomplishing his intent behind his religious preaching, then he would be violating the law, and that is the only issue that this jury is going to decide, whether in what he did he intended to impede the draft law. Now, when he was preaching his religion, from a perfectly religious motive, and had no intention of impeding this Espionage Law, he could not be guilty under the Espionage Act, because it must be wilfull, and if he had no wilfullness in his preaching he could not have any guilty aim.

4338

"The Court: I would be glad to look at any authority that you announce as defining this. I have never run across it in the books. I have never come in contact with any member of the profession who advanced any such doctrine as you do. I think the law is well settled and has been well settled for a great many years that religious belief is not defense for a crime. And that ignorance of the law excused no person. The person charged with crime cannot be held to say that he did not know the law. For a person who is preaching a religious doctrine admits to create insubordination and disloyalty and refuses to do his duty, his preach-

not recall that the Court restricted the 'Bible army. If he preaches this doctrine intending to say just what he did say, the fact that he did not know it was against the law would not excuse him, nor the fact that he thought he was serving God at the time he preached these doctrines would not excuse him, because a person may have several intentions at the same time.

"Mr. Sparks: I am speaking of including all those intentions, but the one I think he has a right to, your Honor, you and I parted company. If he has one idea—

"The Court: No, that is not the doctrine you just described. 4340

Mr. Sparks: That is what I intended to advocate.

"The Court: That is not what you advocated. You stated to the Court that his religious belief, his religious freedom, was such that he would have a right to preach these doctrines. Now, the trial is somewhat near its end and I believe that counsel for the defense would have advocated these doctrines earlier in the trial, either in chambers or in the trial here. I have heard these same claims made before. Have you a brief on this subject of the law? 4341

"Mr. Sparks: We are going to have our requests to charge.

"The Court: What I am more interested in is to find out what the books say. If any Court has pronounced any such doctrine as you have pronounced, I would like to have it now, rather than your request to charge. Have you any authorities that sustain you?

"Mr. Sparks: I do not know that there is any law under this particular act.

"The Court: No, but under any act, holding that a person is excused from crime because he entertains a religious belief.

4342

"Mr. Fuller: Oh, well, that is not our doctrine. We have no proof supporting that doctrine.

"The Court: You have not come across any cases calling for that doctrine?

"Mr. Fuller: We are very much startled that it should be challenged. We haven't any proof upon the proposition that a man might unconsciously preach his own religious doctrines.

"The Court: Whatever it may be.

4343

"Mr. Fuller: His own religious doctrines without being himself responsible for what some person may do in consequence of having heard that preaching. If he has confined himself to the preaching of his religion and not actuated by a motive prior to that preaching—

"The Court: You are very much startled that the Court is of the opinion that that would constitute a crime. You are very much startled to think of that?

"Mr. Fuller: For preaching to constitute a crime.

"The Court: Yes.

"Mr. Fuller: Very much.

4344

"The Court: I am very much astounded, Mr. Fuller, that you should advocate, or anyone admitted to the bar, should advocate any such thing. Anyone that had been around a lawyer's office the many times you have, I think if you are so much surprised and your associate so much surprised, I think you better stop right here and I will give you an opportunity to make a brief on this question of law. It would be a very appropriate thing to do, I think; very.

"Mr. Fuller: That has always been my conception of the religious belief.

Mr. Sparks: Can your Honor cite us to any case which holds your doctrine? 4345

"The Court: Yes, sir.

"Mr. Sparks: We would be very glad to see any case—

"The Court: Just look into the 'Digest' and you will find them.

"Mr. Sparks: The 'Digest' is rather a large place to look. I thought your Honor might have some cases.

"The Court: The Courts have been charging that ever since this law that we are operating under now—

"Mr. Sparks (interposing): I did not so understand they were. 4346

"The Court: You will find a few large bundles of opinions of the Courts in my library on the desk.

"Mr. Sparks: Your Honor has the benefit of the Government's accumulation of these opinions.

"The Court: You can have them any time.

"Mr. Sparks: I would like to see any case that your Honor has in mind which makes it such an open proposition that any person associated with the law office even would understand that that was elementary. Now it must be that has been the subject of judicial decisions which make it an obvious thing. 4347

"The Court: Not so very many.

"Mr. Sparks: One good one would satisfy us.

"The Court: I am not here to make a brief for you, sir. I have referred you to these cases as elementary. It is too elementary even to talk about.

"Mr. Sparks: Will your Honor give us a citation to that?

Assignment of Errors

"The Court: No, I will not. You go make your own brief. I told you these opinions were in there and you can have those. This is the most presumptuous thing I have heard yet during a trial, to ask the Court to make a brief for you. The opinions are on the table and you are welcome to their use. You may now proceed."

4349

74. The Court erred during the testimony of the defendant Martin in sustaining the objections to admitting the question of defendant's counsel on direct-examination: "When did you first learn of the act which is commonly referred to as the Espionage Act?" counsel having expected to show by the answer expected to said question that said defendant did not know of said act until March, 1918.

"DEFENDANT MARTIN, recalled, further testified:

"By Mr. Sparks:

"Q. When did you first learn of the act which is commonly referred to as the Espionage Act?

4350

"Objected to. Question excluded. Defendants except.

"Mr. Sparks: Some of the defendants who were on the witness stand prior, I think I asked one or two, and probably omitted to ask the balance of this question. May it be considered as part of their testimony that the question was asked of them and that your Honor made that ruling as to this?

"The Court: What is the purpose of this? Do you contend that the opinion of the United States Supreme Court in which Mr. Justice Waite rendered the opinion, is not the law of

the land and it is competent to show that these defendants did not know what the law was? Do you claim that as an officer and counsel of this court?

"Mr. Sparks: I am not claiming it is the law—

"The Court: Do you claim it is competent for you to ask a witness if he did or did not know the law?

"Mr. Sparks: I can answer that question very decidedly, if the Court please, that it is a competent and material issue in this case, or I so construe it. 4352

"The Court: The Court will rule against you on that.

"Mr. Fuller: Particularly so as to the first two counts of the conspiracy.

"Mr. Sparks: What I am also trying to cover is as to the other defendants as to whom I may not have asked that question. May it be construed that I asked them all that question?

"The Court: The Court has not any power to put that into the record. If the Government wants to stipulate that, the Court is willing, but it is something that the Court has not anything to do with. 4353

"Mr. Oeland: I am perfectly willing that this question be understood to have been asked each defendant who was on the witness stand, and the objection made and the objection sustained to the question.

"The Court: And each of the defendants have an exception to that ruling."

Assignment of Errors

75. The Court erred in granting the motion of the government to admit in evidence the documents described as the DeCecca letters (Exhibits 25, 26a & b, 27, 28) against each of the defendants other than the defendant DeCecca (record, page 975).

76. The Court erred in granting the motion of the government to admit in evidence the documents described as the Robison letters (Exhibits 17a & b, 18, 19, 20a & b, 21a & b, 33a & b) against each of the defendants other than the defendant Robison (record, page 975).

77. The Court erred in granting the motion of the government to admit in evidence the documents described as the Van Amburgh letter (Exhibit 15a & b, 16a & b), against each of the defendants other than the defendant Van Amburgh (record, page 976).

78. The Court erred in granting the motion of the government to admit in evidence the documents described as the D'Onofrio letters (Exhibits 24 and 29), against each of the defendants (record, page 976).

79. The Court erred in granting the motion of the government to admit in evidence the statements and testimony of the defendants Fisher and Woodworth as to the manner and form of the preparation of the book working together, against the defendants other than the defendants Fisher and Woodworth (record, page 976).

80. The Court erred in granting the motion of the government to admit the book itself (Exhibit 1) or the portions thereof read in evidence, against the defendants other than the defendants Fisher and Woodworth (record, page 976).

81. The Court erred in granting the motion of the government to admit in evidence the contract signed by defendant Rutherford for the printing of the book, against the defendants other than the defendant Rutherford (record, page 976).

82. The Court erred in granting the motion of the government to admit in evidence the check (Exhibit 4), against the defendants other than the defendants MacMillian and Van Amburgh (record, page 976).

83. The Court erred in granting the motion of the government to admit in evidence the document described as the Insberg letters (Exhibit 11), written by defendant Rutherford, against the defendants other than defendant Rutherford (record, page 976).

4358

84. The Court erred in granting the motion of the government to admit in evidence the document described as the Jerry DeCecca letter (Exhibit 28), written by defendant Rutherford, against the defendants other than defendant Rutherford (record, page 976).

85. The Court erred in granting the motion of the government to admit in evidence the document described as the Woodey letter (Exhibits 9 & 10), written by defendant Rutherford, against the defendants other than defendant Rutherford (record, page 976).

4359

86. The Court erred in granting the motion of the government to admit the document described as the Bible Students' Monthly of October 4, 1917 (Exhibit 14), against all of the defendants (record, page 976).

87. The Court erred in granting the motion of the government to admit the testimony of defendant Van Amburgh given before the local board (Exhibit 7), against the defendants other than the defendant Van Amburgh (record, page 976-7).

4360

"Mr. Oeland: I now move that all the evidence which has been admitted from time to time against the various defendants be admitted in evidence against each and all of the defendants, and I specify particularly the following matter: The DeCecca letters; they may be admitted?"

"The Court: They may be admitted.

"Mr. Oeland: The Robinson letters?"

"The Court: Yes, those may be admitted.

"Mr. Oeland: The letters by Van Amburgh?"

"The Court: Yes, it is admitted.

"Mr. Oeland: The D'Onofrio letters?"

4361

"The Court: It is admitted.

"Mr. Oeland: The statements and testimony of Mr. Fisher and Mr. Woodworth as to the manner and form and preparation of the book, working together?"

"The Court: It is admitted.

"Mr. Oeland: And the book itself, and the portions that were read in evidence be admitted against all the defendants?"

"The Court: Well, I say the book itself; I mean those portions that were read in evidence.

"Mr. Oeland: And next the contents signed by Mr. Rutherford for the printing of the books?"

"The Court: Yes.

"Mr. Oeland: And the check which was offered in evidence at the time against McMillan and Van Amburgh be admitted against all the defendants?"

"The Court: It may.

"Mr. Oeland: And the letters written by Mr. Rutherford, having in mind particularly the Ginsburg letters, the letter to Jerry DeCecca, the letter to Woodey. I think that covers all of the evidence that was restricted in any way at the time it was offered. I do not recall that the Court restricted the 'Bible

4362

Students' Monthly' of October 4, 1917, being the reprint copies. We move it be admitted against all of the defendants.

4363

"The Court: Well, that may be considered as in.

"Mr. Oeland: And the testimony of Mr. Van Amburgh, given before the local board, which was read into this record while he was on the witness stand, without being prior to and during the progress of the alleged conspiracy.

"The Court: That, I think, was done in pursuance of it.

"Mr. Oeland: Yes, sir. That was during the progress of what we say was a conspiracy. That his testimony was given and his affidavit was given in support of that claim.

4364

"The Court: Well, these pieces of evidence may be admitted under the conspiracy counts.

"Mr. Oeland: Against each and all of the defendants?

"The Court: Yes, and if you want an exception to the admission of each piece—

"Mr. Fuller: With the exception of the book, I want to have an exception to the defendant DeCecca about his participation in the book. It does not appear—

4365

Mr. Oeland: He sent thirty copies to Camp Devens to Nachida.

"Mr. Fuller: My recollection is I tried to follow it. It is our contention that a conspiracy is not shown here and that in the absence of a conspiracy these various acts are not properly evidence against any of the defendants, except those whose personal participation in that appears.

4366

"The Court: There is an Act of Congress which provides that anyone who aids, assists or abets another are both principals.

"Mr. Fuller: We are charged with the violation of Section 4 of the Espionage Act, that particular section which provides for a conspiracy to do the things which is prohibited in Section 3.

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"The Court: Yes, but under the counts for attempting to cause insubordination and to obstruct recruiting service, of course, we have got to have in mind the Act of Congress which provides if any person aids, assists, abets, counsels another in the commission of a crime, they are all principals and are all equally guilty.

"Mr. Oeland: That is true and it conforms with the indictment.

"The Court: That applies to the substantive counts 3 and 4.

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"Mr. Fuller: Under counts 3 and 4, in order that these various acts may be admissible in evidence against coprincipals, some degree of guilty knowledge of the act itself is necessary to be shown in order to make a conspiracy. The question of guilty knowledge is immaterial with respect to any of the individual acts. Now, I want to object to the reception of these exhibits to the defendants of the first two counts, upon the ground that the conspiracy has not been shown, and that on the second two counts upon the ground that knowledge of the document or act which, by this motion, was extended to the other defendants, is not shown to have been possessed by the other defendants so as to make the acts proper evidence against them.

"The Court: These objections are overruled and each defendant has an exception to the overruling of each objection."

88. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant MacMillan on the first count of the indictment (pages 980-1, 1009).

89. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant MacMillan on the second count of the indictment (pages 980-1, 1009).

90. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant MacMillan on the third count of the indictment (pages 980-1, 1009).

4370

91. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant MacMillan on the third count of the indictment (pages 980-1, 1009).

92. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Fisher on the first count of the indictment (pages 982, 1009).

93. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Fisher on the second count of the indictment (pages 982, 1009).

4371

94. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Fisher on the third count of the indictment (pages 982, 1009).

95. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Fisher on the fourth count of the indictment (pages 982, 1009).

Assignment of Errors

96. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Woodworth on the first count of the indictment (pages 982-3, 1009).

97. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Woodworth on the second count of the indictment (pages 982-3, 1009).

4373

98. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Woodworth on the third count of the indictment (pages 983, 1009).

99. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Woodworth on the fourth count of the indictment (pages 983, 1009).

100. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant DeCecca on the first count of the indictment (pages 983, 1009).

4374 101. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant DeCecca on the second count of the indictment (pages 983, 1009).

102. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant DeCecca on the third count of the indictment (pages 983, 1009.) -

103. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant DeCecca on the fourth count of the indictment (pages 983, 1009).

Assignment of Errors

4375

104. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Martin on the first count of the indictment (pages 984, 1009).

105. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Martin on the second count of the indictment (pages 984, 1009).

106. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Martin on the third count of the indictment (pages 984, 1009). 4376

107. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Martin on the fourth count of the indictment (pages 984, 1009).

108. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Robison on the first count of the indictment (pages 985, 1009).

109. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Robison on the second count of the indictment (pages 985, 1009). 4377

110. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Robison on the third count of the indictment (pages 986, 989, 1009).

111. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Robison on the fourth count of the indictment (pages 986, 989, 1009).

112. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Rutherford on the first count of the indictment (pages 989, 1009).

113. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Rutherford on the second count of the indictment (pages 989, 1009).

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114. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Rutherford on the third count of the indictment (pages 990, 1009).

115. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Rutherford on the fourth count of the indictment (pages 990, 1009).

116. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Van Amburgh on the first count of the indictment (pages 991, 1009).

4380

117. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Van Amburgh on the second count of the indictment (pages 991, 1009).

118. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Van Amburgh on the third count of the indictment (pages 991, 1009).

119. The Court erred in denying the motion at the close of the whole case for the direction of a verdict of acquittal of the defendant Van Amburgh on the fourth count of the indictment (pages 991, 1009).

Assignment of Errors

4381

88-119. Denial of motions for acquittal of eight defendants, six counts each (32 assignments) similar to assignments at end of Government's case:

"Mr. Fuller: We wish to renew the motions made at the end of the People's case in all of their fullness.

"The Court: I forget; there were so many. I forget what they were, but you better refer to the transcript and recall them. I would not like to overrule those in a bunch, because I do not recall just what they were.

"Mr. Fuller: I renew my motion made with respect to the defendant McMillan at the end of the People's case that a verdict be directed dismissing the first and second counts of the indictment charging conspiracy, upon the ground that the evidence does not disclose any participation by this defendant McMillan in any such conspiracy.

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"The Court: You put in some evidence against him just before you rested?

"Mr. Oeland: Yes, the evidence being a recital by Mr. Rutherford at a meeting that he had consulted with McMillan about the book.

"The Court: And the report of the directors' meeting incorporated into the record of the directors' meeting.

4383

"Mr. Oeland: And the writing signed by Mr. McMillan that he approved of it.

"The Court: Yes. Well, there were some other things, too. I will deny that motion and the defendant McMillan has an exception. It is denied as to each count separately, and an exception allowed to each ruling separately so that will save each question.

"Mr. Fuller: I renew the motion made with respect on behalf of the defendant McMillan,

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with respect to the third and fourth counts, upon the ground that there is no evidence supporting the charge that the defendant McMillan violated the law with respect to either of these two counts.

"The Court: The first count is a conspiracy for insubordination to refusal to duty and disloyalty. The second count is conspiracy to obstruct recruiting and enlistment service, and the third count is for attempting to cause insubordination, disloyalty and so forth, and the fourth count is for obstructing recruiting and enlistment service. Did he aid and assist in any way in getting out the book? Did he have something to do with the money?

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"Mr. Oeland: The proof is that he countersigned the check that paid for the book, according to the testimony—

"The Court (interposing): That is McMillan?

"Mr. Oeland: Yea, sir.

"The Court: I had in mind Martin McMillan wrote these various letters.

"Mr. Oeland: No, sir; Robison and Van Amburgh wrote these letters; McMillan was assistant to the president, and in the absence of the president, he had general control, but he testified that at a meeting the D'Onofrio letter was read and that Mr. Rutherford consulted with him about the publishing of the manuscript and that he knew the book was being circulated widely and that he read it.

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"The Court: I will deny the motion.

"Mr. Oeland: And Mr. Rutherford signed the contract.

"The Court: I will deny the motion as to each of the counts, and the defendant McMillan has an exception as to each ruling.

"Mr. Fuller: Now, I desire to make a like motion on behalf of the defendant Fisher that the Court direct a verdict in favor of him with respect to the first and second counts.

4387

"The Court: Mr. Fisher wrote part of the book?

"Mr. Fuller: He wrote Ezekiel. Upon the ground there is no evidence connecting the defendant Fisher in any conspiracy.

"The Court: Didn't he copy the parts written by Mr. Woodworth?

"Mr. Oeland: Woodworth copied his parts. He circulated the book, after reading it. Your Honor remembers his testimony is: 'I asked him why he put in this part that it was a crime to carry on this war, and he said there was a strong current of public opinion at that time and he wrote it after it was published and circulated.'

4388

"The Court: He had some of the books, gave some away and sold some. Yes, I will deny the motion as to this defendant and he has an exception as to each ruling. It is to be considered as a separate ruling as to each count, namely, the first and second counts.

"Mr. Fuller: I make a motion on behalf of the defendant Fisher with respect to the third and fourth counts, upon the ground there is no evidence supporting the charge contained in either of said counts as against the defendant Fisher.

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"The Court: It is denied as to the third and fourth counts. This defendant has an exception as to each ruling.

"Mr. Fuller: Now, I ask to make precisely the same motion on behalf of the defendant Woodworth with respect to the first and second counts, and in respect to the third and fourth counts.

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"The Court: Well, each motion is denied, namely, the motion for the first, second, third and fourth counts, and this defendant has an exception to each ruling.

"Mr. Fuller: I desire to make the same motion on behalf of the defendant DeCecca, that there is no evidence whatever for a direction of a verdict on the first and second counts, upon the ground there is no evidence whatever connecting the defendant with the alleged conspiracy.

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"The Court: It is denied as to the first and second counts, and this defendant has an exception to each ruling.

"Mr. Fuller: I desire to move for the direction of a verdict in favor of the defendant DeCecca upon the third and fourth counts, upon the grounds that the several letters in evidence for which he is shown to have been responsible, namely, to his brother, do not constitute a violation of Section 3 of the Selective Service Law, as charged.

"The Court: Because it was to his brother? He said enough in that letter, didn't he?

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"Mr. Fuller: Not to show any intent whatever to cause either insubordination or interfere with the draft. I think all those letters were written at a time when his brother was awaiting court martial.

"The Court: When he was waiting?

"Mr. Fuller: I think the letter indicated that his brother had been charged—brought up on charges. The letters were letters to his brother.

"The Court: Did he say anything about refusing to do anything, even to the extent of being shot?

"Mr. Fuller: On that he said what he would do if he were under those circumstances, but

he told his brother to follow his conscience and not do as the writer would do.

4393

"The Court: Well, I am inclined to deny this motion as to these counts and the defendant has an exception to each ruling.

"Mr. Sparks: On behalf of the defendant Robert J. Martin, I move the Court to direct a verdict in his favor on the first and second counts of not guilty, on the ground that there is an entire absence of evidence to in any way connect this defendant in any conspiracy as charged in the first or second counts of the indictment.

"The Court: What have you to say to that?

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"Mr. Oeland: The testimony as to Mr. Martin is that he consulted with Mr. Rutherford somewhat about these books; that he had charge of the general distribution of the book after he read it; that in addition to that, while he may have denied it, other proof shows that every letter that went out of here should come under his supervision, and in addition to that, he went out to Hammond and distributed the first issue of this book.

"The Court: It is denied and an exception to this defendant as to each ruling.

"Mr. Sparks: I make a like motion on behalf of the defendant Martin in reference to the third and fourth counts, on the ground there is no evidence tending to establish that he in any way caused any insubordination or interfered in the draft in any way as specified in the Espionage Act.

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"The Court: Denied as to the third and fourth counts, and the defendant Martin has an exception to each ruling.

"Mr. Sparks: On behalf of the defendant Frederick H. Robison, I move to dismiss the

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first and second counts of the indictment on the ground there is no evidence in any way connecting the defendant with any such conspiracy. As to this defendant, the Court will recall that he came here in December, 1917. He went to the Tabernacle on the 20th or 21st, I think, in December, 1917; that the only evidence in this case that in any way concerns him is that he sent out certain letters which have been offered in evidence; that that in no wise connected him in any conspiracy.

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"The Court: Well, what do you say to that rule that a person may join a conspiracy already formed? They do not have to all commence at the same time.

"Mr. Sparks: I know, but there is no evidence which would warrant the assumption that he did join in a conspiracy. That rule might apply, but there is no evidence in this case that the defendant joined any conspiracy, except that he was in the house with a number of the other defendants.

"The Court: He wrote quite a good many letters in which he advised against doing anything until the President defined the service.

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"Mr. Sparks: If the Court should hold that was a violation of the Espionage Act, it might be held on the third and fourth counts for the jury to consider, but certainly that does not of itself in any way show his connection with the conspiracy. There is no claim of a conspiracy. To send out these letters there is no conspiracy.

"The Court: This motion is denied as to the defendant Robison as to the first and second counts, and the defendant has an exception to each ruling.

"Mr Sparks: On behalf of this defendant Frederick H. Robison, I move to dismiss the

third and fourth counts of the indictment on the ground there is no evidence tending to show that he violated any provisions of the Espionage Act, and that the only act shown to have been committed by this defendant is advice given by him to certain persons who wrote him for advice. That the defendant Robison, in sending out his answers to these letters was clearly acting within the provisions of the Selective Service Act itself and in the rules and regulations promulgated thereunder, the rule and regulation of the President that every citizen should advise or see that the provisions of the Selective Service Law itself were carried out.

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"The Court: You must specify to me just what those provisions are, if you please. As I recall the act, it provides that no one shall be exempted except such as have been found to be conscientious objectors, and that if a person is found to be such a person it would be his duty to obey the military authority in the army. And he would be obeying the authority if he had been found to be a conscientious objector, because he would have to do, then what the President prescribed. You say you want this motion granted because of certain provisions of the Selective Service Law, and the rules and regulations, and I would merely like to have you point out to the Court just what parts of the act you rely upon and just what rules you rely upon.

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"Mr. Sparks: I rely on Section 4 of the Act itself.

"The Court: You read that, please.

"Mr. Sparks: And nothing in the Act contained shall be construed to require or compel any person to serve in any of the forces

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herein provided for, who is found to be a member of a well recognized religious sect, or organization at present organized and existing whose existing creed or principles forbid its members to participate in war in any form and whose religious convictions are against war or participation therein in accordance with the creed or principals of said religious organization, but no person so exempted shall be exempted from service in any capacity that the President shall declare to be noncombatant.

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"The Court: Now, that provides that he should not be relieved of it entirely. It has been found to be a conscientious objector and so forth. Now, as I recall it none of these persons that the defendant Robison wrote to had been found to be such persons.

"Mr. Sparks I think the evidence isn't that way, that in a number of cases the letters themselves from the registrant states that he has been classified by his local board to be a member of the organization.

"Mr. Oeland: They refer to both matters. Both where he had been in some instances, where he said he had been classified and wants to know if he should do noncombatant service, or do anything in camp, and they say do not do anything.

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"The Court: Supposing a person had been found to be a conscientious objector. Now, he is kept in the army. He must do something until the President prescribes that service, why is he entitled to go into rebellion against all officers in the army? Is he entitled to do that?

"Mr. Oeland: No, sir. It is our contention that he is to be classified and put into service. He writes a letter and he says, 'No, we

advise you not to do anything but refuse to do it', and in many instances they had already been classified when they received that advice.

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"Mr. Sparks: Rule 13 says: 'The principles of such religious organizations shall be furnished by such local board with a certificate to that effect and to the further effect that by the terms of Section 3 of the Selective Service Law, they can only be required to serve in a capacity declared by the President to be non-combatant. He shall be classified, however, as is any other registrant; but he shall be designated upon all classifications, forms, records, certificates, and other writings of local and district boards, in which his name appears by the insertion of a cipher O after his name, and then he remains free from any service until after the President formulated his rules, and he was not be inducted into the service until after the President had defined what non-combatant service was and up to that time he was free from any military duty.

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"The Court: Is that the way you construe that? The Court of Appeals in the Angelus case, I believe they said that these tribunals constituted to pass upon these questions were the ones to hear and determine all these questions, that the civil courts had nothing to do with it. These various boards and tribunals constituted to decide these army questions, if they decide them wrong, the civil courts could not overrule them. The only power that the civil courts had was to see to it that they were given a trial in the military tribunal. Now if we should stop here and say that this board, that board and various other tribunals, constituted to try these military questions, that they ought to decide them erroneously or had not decided them at all, why the army would

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not able to make very much progress and that seems to be a pretty well settled policy. And Judge Rodgers wrote a very long opinion in the Circuit Court of Appeals in New York.

"Mr. Oeland: As far as I know it has been universally followed.

"The Court: He did not announce any new doctrine.

"Mr. Oeland: And I think it has been confirmed by the Supreme Court of the United States in one of those western cases where they appealed from that ruling. It was decided about six or seven months ago.

4409

"The Court: I will deny these motions as to the 3rd and 4th counts, and this defendant has an exception to each ruling.

"Mr. Sparks: I move for a direct verdict of acquittal for the defendant Joseph F. Rutherford on the first and second counts on the ground that there is no evidence connecting him with the conspiracy, or conspiracies set forth in these counts.

"The Court: It is denied as to the first and second counts, and this defendant has an exception to each ruling.

4410

"Mr. Sparks: I base my motion on that respect on the ground that the defendant Rutherford was acting solely as an officer of the corporation, or a membership corporation. A mere holding of an office itself is no evidence of his conspiracy in connection with the conspiracy, and that he was only performing his duties as an officer of the association in doing what he did. I make the same motion with reference to the defendant Rutherford on the 3rd and 4th counts, on the ground there is no evidence tending to show that he in any way interfered with the draft or caused insubor-

dination in the military or naval forces of the United States as charged in the words of the indictment itself. 4411

"The Court: What difference did it make whether this defendant was the president or any other officer of the corporation? He would not have any greater right because he was the president, could he?

"Mr. Sparks: No. My motion is based upon the fact that he did these things as an officer of the corporation itself and not doing them individually.

"The Court: Does that make any difference? 4412

"Mr. Sparks: Yes. I think the question in such a case there must be an intent, an act in an individual when a person is acting as an officer.

"The Court: Well, from that doctrine a man who is the president of a corporation can do things that he could not do individually?

"Mr. Sparks: Yes, unless he had intended to do those things, that he was acting for and on behalf of the corporation in carrying out the orders of the corporation that may be expressed by its Board of Directors and officers.

"The Court: There is no evidence here that he was carrying out any orders except those that he made or helped make. I do not just see how that makes any difference whether he is president or whether he a doorkeeper or janitor. What do you say about that, Mr. District Attorney. This is another new question to me. I did not suppose it made any difference as to what office a man held? 4413

"Mr. Oeland: I had always supposed the law to be, and still think it to be, I never heard it questioned before, that a man can act in an

4414

official capacity, he must act individually, in other words, an individual act of his in carrying out some corporate act, and it is no defence to him that he acted as president because he also acted individually, unless by some duress he is forced to act. That is the only rule I have ever heard that excuses a man for his act.

"The Court: The motion may be denied on each ground as to each of the counts, and this defendant has an exception to the denial of the motion on each ground and as to each count.

4415

"Mr. Sparks: I make the same motions to the defendant Van Amburgh, upon all the grounds specified in reference to the Rutherford motions, upon all counts.

"The Court: Denied as to the 1st, 2nd, 3rd and 4th counts as to the defendant Van Amburgh and on each ground as specified in the motion in behalf of the defendant Rutherford, and the defendant Van Amburgh has an exception to each ruling of the Court and on each ground.

"Mr Sparks: Exception to each of the other defendants. I assume that your Honor made that statement as to the other defendants. I was trying to follow your Honor's language at that time, but I assume I can take an exception as to all the motions made?

4416

"The Court: Yes, if by inadvertence the Court has omitted to reserve an exception to any of the defendants, on any of the grounds in their motions, or as to any of the motions an exception is now reserved to them to the denial of each motion and on each ground.

"The Court: All the motions which were made by the defendants, and each of them, yesterday, may be considered and treated as if they were now renewed, and all the rulings of the Court and all the exceptions taken may be considered and treated as if they were made and taken at this time at the close of all the evidence in the case. Now you may proceed with the arguments."

120. The Court erred in making the following portion of the charge to the jury in so far as it related to the counts of the indictment for conspiracy and in not limiting such portions of the charge to the other counts:

4418

"Ignorance of the law excuses no man. A person charged with a crime cannot be heard to say that he did not know the law. Advice of an attorney at law does not constitute a defense to crime. A religious belief does not constitute a defense to a crime."

(Covered by exception L 1029 lines 31-35)

121. The Court erred in making the following portions of the charge to the jury in so far as it relates to the counts of the indictment for conspiracy and in not limiting such portion of the charge to the other counts:

4419

"It is a presumption of fact and supposition of law. If you find that they purposely and intentionally said what they did, wrote what they did, or published what they did, in a wilful attempt to cause insubordination, disloyalty or refusal of duty, as defined, or a wilful obstruction to the recruiting or enlistment service, as defined, this would constitute criminal intention, notwithstanding you may also find that the defendants intended to serve God in doing what they did, and were not conscious of doing anything unlawful, because they did not know the law. The de-

defendants are criminally responsible for what they knowingly or purposely did, and the want of understanding on their part that they were committing a crime, because they did not actually know the law, does not excuse them, for they are conclusively presumed to know the law, and ignorance of the law excuses no man."

(Covered by exception L 1029 lines 31-35 and 1009c also following):

4421 "Mr. Sparks: Just one thing. I wish to take an exception to that last statement on page 10, "The defendants are criminally responsible for what they knowingly or purposely did, and the want of understanding on their part that they were committing a crime, because they did not actually know the law, does not excuse them, for they are conclusively presumed to know the law, and ignorance of the law excuses no man, upon the ground it does not take into consideration, so far as this statute is concerned, the intent of the defendants specified in that paragraph, the part I quote, and there must be some qualifying statement that they intentionally and wilfully—

"The Court: Wilfully and intentionally is pretty prominent all through the charge.

4422 "Mr. Sparks: It is not in that sentence.

"The Court: You can use those words in every sentence. If you did we would never get through."

122. The Court erred in making the following portion of the charge to the jury:

"With the exception of the defendant Giovanni De-Cecca, all the defendants have testified that in saying what they did, in writing what they did, and in publishing what they did, they acted willingly and purposely; that they did nothing by accident or inadvertently; that they intended, hoped and expected that what they said, wrote and published would be believed,

adopted and followed by persons in the military forces as well as by others; that the more who believed, adopted and followed their doctrines and advice, the more gratifying it would be to them, but notwithstanding their testimony in this regard, they have denied that they intended to cause insubordination, disloyalty or refusal of duty in the military forces, or to obstruct the recruiting or enlistment service. As I have said before, what the defendants' intentions were is a question of fact for you to decide.

"Mr. Fuller: Yes. I want to except on behalf of all the defendants to so much of the charge written on page 11 that charges that all the defendants, with the exception of Giovanni DeCecca, have testified 'That they intended, hoped and expected that what they said, wrote and published would be believed, adopted and followed by persons in the military forces as well as by others; that the more who believed, adopted and followed their doctrines and advice, the more gratifying it would be to them.'

4424

"The Court: Didn't all the defendants testify to that effect or tendency?

"Mr. Fuller: I don't think more than perhaps the defendant Woodworth testified wholly to that effect. I think McMillan testified not at all to any of it; I think Martin testified to none of the part of that paragraph I excepted to, and I think the defendants Rutherford, Van Amburgh and Fisher testified to practically none of that particular portion of the paragraph.

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"The Court: Mr. Foreman and Gentlemen of the Jury: It is said by counsel that the Court is in error as to the tendency of the evidence in which I refer to the testimony of the defendants in these words: 'With the exception of the defendant Giovanni DeCecca, all the defendants have testified that in saying what they did, in writing what they did, and in pub-

lishing what they did, they acted willingly and purposely; that they did nothing by accident or inadvertently; that they intended, hoped and expected that what they said, wrote and published would be believed, adopted and followed by persons in the military forces as well as by others; that the more who believed, adopted and followed their doctrines and advice, the more gratifying it would be to them. Now, if there is any of the defendants who have not testified to that effect—of course, I have not undertaken to quote their exact words, I have undertaken to state the tendency of their evidence, the tendency of their testimony—but what they did testify to is a question of fact for you to decide, and if the Court is in error in its statement of the tendency of their evidence in this regard, and you all heard what Mr. Fuller said as to the testimony of the defendants on this subject-matter, you will disregard what the Court said about it. Let me impress upon you in strongest terms that it is for you to decide, it is for you to recollect and recall the testimony. It is your recollection, it is your memory that should control you, and the Court would not refer to this matter if it were not for illustrating the question of law, and if you should get into a disagreement as to what the evidence in this case is, you can come into court and they will read the transcript made, at any time, on any subject. I might ask counsel for the Government what is your recollection about this tendency of the defendants' testimony in this regard?"

122a. The Court erred in charging the jury as follows:

"For the purpose of this case 'the military forces of the United States' include all soldiers in the army and all male citizens or aliens who have declared their intention to become citizens—but not alien enemies—

Assignment of Errors

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between the ages of 21 and 30 inclusive, who registered on June 5, 1917, in obedience to the proclamation of the president."

(Record, pages 1015-6, exception by defendants, page 1009a.)

122b. The Court erred in charging the jury as follows:

"A conspiracy can be proved by the proof of facts from which you can fairly and reasonably infer that the defendants had a common object, or by the proof of facts from which the acts of each defendant were done in pursuance of the common purpose, and calculated to effect that purpose, although such acts may be different in character."

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(Record, page 1018, exception by the defendants, page 1009b.)

122c. The Court erred in charging the jury as follows:

"Concurrence of action on the material points may be sufficient to enable you to presume concurrence of sentiment and intention, and from this you can very safely find the fact that the conspiracy existed."

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Record, page 1018, exception by the defendants, page 1009b.)

122d. The Court erred in charging the jury as follows:

"A good question to ask yourselves is, did the defendants have a common purpose to cause insubordination, disloyalty or refusal of duty in the military forces of the United States, or to obstruct recruiting or enlistment service of the United States, and did

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Assignment of Errors

they pursue that purpose by common means, whether acting separately or together?"

(Record, page 1019, exception by the defendants, page 1009c.)

122e. The Court erred in admitting in evidence over defendants' objection and exception, Exhibit 6, being a printed affidavit signed by William E. Van Amburgh, verified December 18, 1917, sketching the religious creed of the International Bible Students Association.

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123. The Court erred in denying the requests to charge on behalf of the defendants as follows:

"2. Although a conspiracy may be proved by circumstantial evidence, and its exact details need not be formulated in words, there must be a well-defined and clear intent and a well-defined and unmistakable combination. Whether such a conspiracy was formed is not a question of conjecture, supposition or presumption."

"3. The agreement to form a conspiracy must be established beyond a reasonable doubt.

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"5. The existence of the alleged conspiracy, and the fact of each defendant's participation in it, are to be determined independently in the case of each defendant, and the presumption of innocence applies to each, as well as to all. Each defendant must be acquitted unless the evidence establishes beyond a reasonable doubt his participation in the conspiracy and his knowledge of its illegal object.

"12a. It is the constitutional right of every citizen to express his religious belief about the war or the participation of the United States in it, about the desirability of peace, about the merits or demerits of the

Assignment of Errors

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system of conscription, and about the moral rights or claims of 'conscientious objector' to be exempt from conscription.

"13b. It is the constitutional right of every citizen to express his religious beliefs even though they are opposed to the opinions or policies of the administration, and even though the expression of such beliefs may unintentionally or indirectly discourage recruiting and enlistment, or cause insubordination, disloyalty or refusal of duty.

"13c. It is likewise the right of any group of citizens associated together for the expression of their religious beliefs in their official papers and books, to express such beliefs on the pages of such official papers and books, by means of articles, drawings or cartoons, and to bring the expression and publication of such beliefs in such papers and books within the offense charged in this indictment, under counts one and two, it must be shown that the intent of such publications was to wilfully obstruct the recruiting or the enlistment service of the United States to the injury of the service or of the United States, or wilfully to cause or attempt to cause insubordination, disloyalty or refusal of duty, in the military or naval forces of the United States and that two or more persons, including each defendant found guilty, had entered into a deliberate conspiracy to effect one of such results.

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"16. The word 'wilful' as used in Section 3 of the Espionage Act, denotes the will or desire on the part of the doer of an act that it shall have a certain effect or effects—in this case, the effect of obstructing the recruiting or enlistment service and the effect of injuring the service of the United States. It excludes carelessness or indifference to prohibited or illegal results. It excludes unconsciousness of the possibility or likelihood of prohibited or illegal results. It excludes

inattention to the possibility or likelihood of prohibited or illegal results.

"The word 'wilfully' means not merely not voluntarily but with a bad purpose.

"17. The contents of 'The Finished Mystery' and the exhibits put in evidence by the prosecution, afford no evidence of any attempt, effort or intent to obstruct in any manner the recruiting or enlistment service of the United States.

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"24. If it was the conscious purpose of the defendants to state a religious truth as they saw it; to do this clearly and persuasively in order to lead others to see things in the same way in accordance with what they believed to be true, and that obstruction of the recruiting or enlistment service was not their object, the jury cannot find them guilty.

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"26. It is a question of fact for the jury to determine as to whether the matter printed on pages 247 to 253 of 'The Finished Mystery' and that appearing on pages 289, 406, 407 and 469 of 'The Finished Mystery,' was written, published or distributed wilfully to cause or to attempt to cause, insubordination, disloyalty, mutiny or refusal of duty in the military and naval forces of the United States, or wilfully to obstruct the recruiting or enlistment service of the United States, to the injury of the service or of the United States. If the jury find that it was not wilfully so written, published or distributed, the jury is directed wholly to disregard 'The Finished Mystery' and its contents in arriving at a determination with respect to the charge brought against any of the defendants.

"27. If the jury shall find, as they may find from the evidence, that 'The Finished Mystery' was written, published and distributed without any intent on the

part of the defendants to cause or attempt to cause insubordination, disloyalty or refusal of duty in the military and naval forces of the United States, and without any intent to obstruct the recruiting or enlistment service of the United States to the injury of the service or of the United States, the jury is directed wholly to disregard 'The Finished Mystery' and its contents in arriving at a determination with respect to the charge brought against any of the defendants.

"29. If the jury shall find that any of the defendants entered into any combination, confederation or agreement wilfully to cause or attempt to cause insubordination, disloyalty or refusal of duty in the military or naval forces of the United States, or wilfully to obstruct the recruiting or enlistment service of the United States to the injury of the service or of the United States, and at the time of such combination, confederation or agreement were, and thereafter, or while doing any acts in furtherance of such combination, confederation or agreement, remained in ignorance of the enactment or existence of the Espionage Act, approved June 15, 1917, and all its provisions, the jury must find such defendants innocent of any conspiracy to violate any of the provisions of said Espionage Act of June 15, 1917.

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"31. The jury is not authorized to find any defendant guilty upon a charge that he did combine, confederate or agree together with any other defendant or defendants to violate the provisions of Section 3 of the Espionage Act, unless the jury finds that one or more of the defendants who so combined, confederated or agreed together did an act to effect the object of such combination, confederation or agreement after some one of such defendants had knowledge of some of the provisions of the Espionage Act, approved June 15, 1917.

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Assignment of Errors

"32. The jury may not find a defendant guilty upon the charge of conspiracy unless it finds that such defendant combined, confederated or agreed with one or more of the other defendants to do an act known by such defendant at the time of such combination, confederation or agreement to be prohibited by law, or known by such defendant at the time of the doing of such act to be prohibited by law.

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"38. If the jury find that 'The Finished Mystery' was written, published and distributed without the desire upon the part of any defendant participating in the writing, publication or distribution thereof, that it have the effect of causing insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States or of obstructing the recruiting or enlistment service of the United States, the jury must find the defendants Woodworth, Fisher, McMillan and Martin not guilty.

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"39. If the jury find that 'The Finished Mystery' was written, published and distributed without any desire upon the part of any defendant participating therein that it have the effect of causing insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States, or of obstructing the recruiting or enlistment service of the United States, that the letters written by the defendant Rutherford were not written with the desire to attempt to cause insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States, or to obstruct the recruiting or enlistment service of the United States, they must find the defendant Rutherford not guilty.

"40. If the jury find that 'The Finished Mystery' was written, published and distributed without any desire upon the part of any defendant participating

therein, that it have the effect of causing insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States or of obstructing the recruiting or enlistment service of the United States, that the letters written by the defendant Van Amburgh were not written with the desire to attempt to cause insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States, or to obstruct the recruiting or enlistment service of the United States, they must find the defendant Van Amburgh not guilty.

"41. If the jury find that 'The Finished Mystery' was written, published and distributed without any desire upon the part of any defendant participating therein that it have the effect of causing insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States or of obstructing the recruiting or enlistment service of the United States, and that the letters written by the defendant Robison were not written with the desire or attempt to cause insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States, or to obstruct the recruiting or enlistment service of the United States, they must find the defendant Robison not guilty.

"42. If the jury find that 'The Finished Mystery' was written, published and distributed without any desire upon the part of any defendant participating therein, that it have the effect of causing insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of the United States or of obstructing the recruiting or enlistment service of the United States, and that the letters written by the defendant DeCecca were not written with the desire to attempt to cause insubordination, disloyalty, mutiny or refusal of duty in the military or naval forces of

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Assignment of Errors

the United States, or to obstruct the recruiting or enlistment service of the United States, they must find the defendant DeCecca not guilty.

"43. The letters written by the defendant Rutherford contained nothing which constituted a violation of Section 3 of the Espionage Act, approved June 15, 1917.

4451 "44. The letters written by the defendant Van Amburgh contained nothing which constituted a violation of Section 3 of the Espionage Act, approved June 15, 1917.

"45. The letters written by the defendant Robison contained nothing which constituted a violation of Section 3 of the Espionage Act, approved June 15, 1917.

"46. The letters written by the defendant DeCecca contained nothing which constituted a violation of Section 3 of the Espionage Act, approved June 15, 1917.

4452 "47. The Selective Service Law provides that no person who is found to be a member of any well recognized religious sect or organization, organized and existing May 18, 1917, and whose then existing creed or principles forbid its members to participate in war in any form and whose religious convictions are against war or participation therein in accordance with the creed or principles of said religious organization, can be required or compelled to serve in any of the military forces raised under the Selective Service Law.

"49. That if any person, who is a member of any well recognized religious sect or organization, organized and existing May 18, 1917, and whose then existing creed or principles forbid its members to participate in war in any form and whose religious con-

Assignment of Errors

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victions are against war or participation therein in accordance with the creed or principles of said religious organization, has been, contrary to the Selective Service Law, inducted into the service, it would not be a violation of the Espionage Act to advise such person that he need not voluntarily accept noncombatant service until the President had defined what noncombatant service was.

"53. In reaching their decision upon the conspiracy charged in this case, the jury should carefully exclude from their minds all influence arising from popular excitement incident to the war, or their own belief in the justness of this country's participation in the war."

4454

Dated, December 20th, 1918.

Yours etc.,

SPARKS, FULLER & STRICKER,

Attorneys for Defendants,

Office & P. O. Address,

44 Court Street,

Borough of Brooklyn,

City of New York.

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Citation.

By the Hon. Harland J. Howe, one of the Judges of the District Court of the United States, holding court in the Eastern District of New York, in the Second Circuit.

To the United States of America, defendant in error, GREETING:

You are hereby cited and admonished to be and appear before a United States Circuit Court of Appeals for the Second Circuit, to be holden at the United States Court House, in the Borough of Manhattan, City of New York, and State of New York, in said Circuit, within thirty days from the date hereof, pursuant to a writ of error filed in the office of the Clerk of the United States District Court for the Eastern District of New York, wherein Joseph F. Rutherford, William E. Van Amburgh, Robert J. Martin, Frederick H. Robison, George H. Fisher, Clayton J. Woodworth, A. Hugh MacMillan, are plaintiffs-in-error, and each of them is plaintiff-in-error, and you are defendant-in-error, to show cause, if any there be, why the order and judgment in said writ mentioned should not be corrected and speedy justice should not be done in that behalf.

Given under my hand at the Borough of Brooklyn, in the City of New York, County of Kings and State of New York, this 21st day of June, 1918, and of the independence of the United States the one hundred and forty-second.

HARLAND B. HOWE,

Judge of the United States District Court
holding court in and for the Eastern
District of New York, in the Second
Circuit.

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Citation.

4459

By the Hon. Thomas I. Chatfield, one of the Judges of the District Court of the United States, holding court in the Eastern District of New York, in the Second Circuit.

To the United States of America, defendant in error, GREETING:

You are hereby cited and admonished to be and appear before a United States Circuit Court of Appeals for the Second Circuit, to be holden at the United States Court House, in the Borough of Manhattan, City of New York, and State of New York, in said circuit on Jan. 20th, 1919, within thirty days from the date hereof, pursuant to a writ of error filed in the office of the Clerk of the United States District Court for the Eastern District of New York, wherein Giovanni DeCecca is plaintiff-in-error, and you are defendant-in-error, to show cause, if any there be, why the order and judgment in said writ mentioned should not be corrected and speedy justice should not be done in that behalf.

4460

Given under my hand at the Borough of Brooklyn, in the City of New York, County of Kings, and State of New York, this 21st day of December, 1918, and of the independence of the United States the one hundred and forty-second.

4461

THOMAS I. CHATFIELD,

Judge of the United States District Court
for the Eastern District of New York,
in the Second Circuit.

4462 Order Regulating Bill of Exceptions and Extending Return Day of Citation.

At a June Term, 1918, as extended of the United States District Court for the Eastern District of New York, held at the United States Court Rooms, in the Post Office Building, in the Borough of Brooklyn, City of New York, on the 31st day of March, 1919.

Present: Hon. Harland B. Howe, District Judge.

4463

UNITED STATES OF AMERICA

vs.

JOSEPH F. RUTHERFORD, WILLIAM E. VAN AMBURGH, ROBERT J. MARTIN, FREDERICK H. ROBINSON, GEORGE H. FISHER, CLAYTON J. WOODWORTH, A. HUGH MacMILLAN, and GIOVANNI DeCECCA,

Defendants.

4464

Upon the annexed consent of the attorneys for the parties hereto, it is

Ordered that the returns to the writs of error heretofore issued herein be consolidated in one transcript of record, that the same bill of exceptions be included in the return to both writs, and that the assignments of error heretofore filed on behalf of the defendant, DeCecca, and the amended assignments of error heretofore filed on behalf of the remaining defendants, be printed but once in said transcript of record; and it is

Stipulation

4465

Further ordered, that the original of Exhibit 1, both as offered in evidence and as attached to the indictment herein, and of Exhibits 3a, 3b, 8, and O be used on the hearing upon the writs of error herein, and that the printing of copies thereof in the transcript of record be dispensed with; and it is

Further ordered, that the return day of the citation herein be extended to the 8th day of April, 1919.

Enter,

HARLAND B. HOWE,

U. S. District Judge.

4466

Stipulation Affecting Bill of Exceptions and Extending Return Day of Citation.

UNITED STATES DISTRICT COURT,

FOR THE EASTERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

vs.

**JOSEPH F. RUTHERFORD, WILLIAM
E. VAN AMBURGH, ROBERT J.
MARTIN, FREDERICK H. ROBI-
SON, GEORGE H. FISHER, CLAY-
TON J. WOODWORTH, A. HUGH
MacMILLAN, and GIOVANNI De-
CECCA,**

Defendants.

4467

All of the above-named defendants, except Giovanni DeCecca, having had sentence pronounced against them

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Stipulation

on the 21st day of June, 1918, and having thereupon immediately filed assignments of error and procured the allowance of a writ of error, and sentence having been thereafter pronounced against the defendant, Giovanni Decca on the 10th day of July, 1918, and he having thereafter on the 21st day of December, 1918, filed assignments of error and procured the allowance of a writ of error and the assignments of error filed by said Giovanni DeCecca being the same as the amended assignments of error filed on behalf of the other defendants and the bill of exceptions heretofore filed herein on the 26th day of March, 1919, on behalf of said Giovanni DeCecca and on behalf of the remaining defendants being the same and this cause having heretofore, by order of the United States Circuit Court of Appeals for the Second Circuit, entered in the office of the Clerk of said court on the 21st day of March, 1919, been set for the 14th day of April, 1919, and the return day of the citation herein having been fixed by the order of the United States District Court for the Eastern District of New York, for the 1st day of April, 1919, at which time the printing of the transcript of record herein will not have been completed, and the parties hereto having heretofore stipulated that the original Exhibits '1, 3a, 3b, 8 and O, be used on the hearing of the writ of error herein and that printing of copies thereof in the transcript of record be dispensed with,

It is hereby stipulated by and between the above-named parties as follows:

1. That the transcript of record upon the return to the writ of error heretofore issued on behalf of Giovanni DeCecca and on behalf of the remaining defendants herein be consolidated, that the same bill of exceptions be used upon the return to both writs, and that the assignments of error be printed but once

Stipulation

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in said transcript of record and be the same for both writs.

2. That the original of Exhibits 1, 3a, 3b, 8 and O be used on the hearing of the writ of error herein and that the printing of copies thereof in the transcript of record be dispensed with.

3. That the return day of the citation herein be extended to the eighth day of April, 1919, to permit of the completion of the printing of the transcript of record and that when the printing of said transcript of record is completed, one of the copies thereof be filed with the clerk *nunc pro tunc* for use in lieu of the papers previously settled herein.

4472

Dated, March 31, 1919.

JAMES D. BELL,

United States Attorney for
the Eastern District of New York.
SPARKS, FULLER & STRICKER,
Attorneys for Defendants.

4473

4474 **Stipulation for Filing Transcript of
Record.**

UNITED STATES DISTRICT COURT,

FOR THE EASTERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

vs.

4475 **JOSEPH F. RUTHERFORD, WILLIAM
E. VAN AMBURGH, ROBERT J.
MARTIN, FREDERICK H. ROBIN-
SON, GEORGE H. FISHER, CLAY-
TON J. WOODWORTH, A. HUGH
MacMILLAN, and GIOVANNI De-
CECCA,**

Defendants.

4476 It is hereby stipulated between the parties hereto,
that the foregoing is a true and correct transcript of
the record of the above-named District Court in the
above-entitled matter and that the same be settled
and filed herein as a true, correct and complete trans-
cript of record on error to the above-named court in
the above-entitled matter.

Dated, Brooklyn, New York, April , 1919.

JAMES D. BELL,

United States Attorney for the
Eastern District of New York.

SPARKS, FULLER & STRICKER,

Attorneys for Defendants.

**Order That Transcript of Record be
Filed.**

4477

**UNITED STATES DISTRICT COURT,
FOR THE EASTERN DISTRICT OF NEW YORK.**

UNITED STATES OF AMERICA

vs.

**JOSEPH F. RUTHERFORD, WILLIAM
E. VAN AMBURGH, ROBERT J.
MARTIN, FREDERICK H. ROB-
SON, GEORGE H. FISHER, CLAY-
TON J. WOODWORTH, A. HUGH
MacMILLAN, and GIOVANNI De-
CECCA,**

Defendants.

4478

Within the time limited by the rules and orders of this court, defendants having moved to settle their bill of exceptions herein, including the testimony as recorded by the official stenographer, together with the exceptions taken, etc., as well as the exhibits introduced etc., except as to those exhibits, the originals of which are stipulated to be used upon the hearing of the writ of error herein, and said bill of exceptions containing all the evidence, except said exhibits, having been duly settled and ordered on file, and included in the foregoing printed record with the other papers herein now duly on file with the clerk of this court in the above entitled matter, and the foregoing transcript of record containing true and complete copies thereof, it is

4479

Ordered that the foregoing printed record be filed with the clerk *nunc pro tunc* in lieu of the papers

